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BASIC DOCUMENTS CONCERNING FEDERAL PROGRAMS TO CONTROL ENVIRONMENTAL POLLUTION FROM FEDERAL GOVERNMENT ACTIVITIES

Environmental Protection Agency
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ENVIRONMENTAL PROTECTION AGENCY

BASIC DOCUMENTS CONCERNING FEDERAL PROGRAMS TO CONTROL ENVIRONMENTAL POLLUTION FROM FEDERAL GOVERNMENT ACTIVITIES

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FEDERAL ACTIVITIES

137

INTRODUCTION

The President and Congress have made a substantial commitment to clean up the Federal Government's installations and to ensure that its own multivariate activities do not imperil the environment. This booklet contains a compilation of documents which have proved useful to the Environmental Protection Agency. The documents, which include legislation, Presidential Executive Orders, and Office of Management and Budget Circulars and Bulletins, fall into three main areas:

- Environmental Impact Statements
- Control of Pollution from Federal Facilities
- Environmental Controls in Federal Agreements (contracts, grants, loans, leases, licenses, and permits, etc.)

This compilation is not intended to be an exhaustive catalog of the legal authorities for the Federal government's internal environmental protection programs, but rather a handy reference for those who work with those programs on a daily basis.

EPA would be happy to receive suggestions for improvements for this reference guide. Please send any comments to:

Office of Federal Activities
Environmental Protection Agency
Room 3632, Waterside Mall
4th and M Streets, S.W.
Washington, D.C. 20460

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§ 4321. Congressional declaration of purpose

The purposes of this chapter are: To declare a national policy which will encourage productive and enjoyable harmony between man and his environment; to promote efforts which will prevent or eliminate damage to the environment and biosphere and stimulate the health and welfare of man; to enrich the understanding of the ecological systems and natural resources important to the Nation; and to establish a Council on Environmental Quality.
Pub.L. 91-190, § 2, Jan. 1, 1970, 83 Stat. 852.

SUBCHAPTER I.—POLICIES AND GOALS

§ 4331. Congressional declaration of national environmental policy

(a) The Congress, recognizing the profound impact of man's activity on the interrelations of all components of the natural environment, particularly the profound influences of population growth, high-density urbanization, industrial expansion, resource exploitation, and new and expanding technological advances and recognizing further the critical importance of restoring and maintaining environmental quality to the overall welfare and development of man, declares that it is the continuing policy of the Federal Government, in cooperation with State and local governments, and other concerned public and private organizations, to use all practicable means and measures, including financial and technical assistance, in a manner calculated to foster and promote the general welfare, to create and maintain conditions under which man and nature can exist in productive harmony, and fulfill the social, economic, and other requirements of present and future generations of Americans.

(b) In order to carry out the policy set forth in this chapter, it is the continuing responsibility of the Federal Government to use all practicable means, consistent with other essential considerations of national policy, to improve and coordinate Federal plans, functions, programs, and resources to the end that the Nation may—

(1) fulfill the responsibilities of each generation as trustee of the environment for succeeding generations;

(2) assure for all Americans safe, healthful, productive, and esthetically and culturally pleasing surroundings;

(3) attain the widest range of beneficial uses of the environment without degradation, risk to health or safety, or other undesirable and unintended consequences;

(4) preserve important historic, cultural, and natural aspects of our national heritage, and maintain, wherever possible, an environment which supports diversity and variety of individual choice;

(5) achieve a balance between population and resource use which will permit high standards of living and a wide sharing of life's amenities; and

(6) enhance the quality of renewable resources and approach the maximum attainable recycling of depletable resources.

(c) The Congress recognizes that each person should enjoy a healthful environment and that each person has a responsibility to contribute to the preservation and enhancement of the environment.

Pub.L. 91–190, Title I, § 101, Jan. 1, 1970, 83 Stat. 852.

§ 4332. Cooperation of agencies; reports; availability of information; recommendations; international and national coordination of efforts

The Congress authorizes and directs that, to the fullest extent possible: (1) the policies, regulations, and public laws of the United States shall be interpreted and administered in accordance with the policies set forth in this chapter, and (2) all agencies of the Federal Government shall—

(A) utilize a systematic, interdisciplinary approach which will insure the integrated use of the natural and social sciences and the environmental design arts in planning and in decisionmaking which may have an impact on man's environment;

(B) identify and develop methods and procedures, in consultation with the Council on Environmental Quality established by subchapter II of this chapter, which will insure that presently unquantified environmental amenities and values may be given appropriate consideration in decisionmaking along with economic and technical considerations;

(C) include in every recommendation or report on proposals for legislation and other major Federal actions significantly affecting the quality of the human environment, a detailed statement by the responsible official on—

(i) the environmental impact of the proposed action,

(ii) any adverse environmental effects which cannot be avoided should the proposal be implemented,

(iii) alternatives to the proposed action,

(iv) the relationship between local short-term uses of man's environment and the maintenance and enhancement of long-term productivity, and

(v) any irreversible and irretrievable commitments of resources which would be involved in the proposed action should it be implemented.

Prior to making any detailed statement, the responsible Federal official shall consult with and obtain the comments of any Federal agency which has jurisdiction by law or special expertise with respect to any environmental impact involved. Copies of such statement and the comments and views of the appropriate Federal, State, and local agencies, which are authorized to develop and enforce environmental standards, shall be made available to the President, the Council on Environmental Quality and to the public as provided by section 552 of Title 5, and shall accompany the proposal through the existing agency review processes;

(D) study, develop, and describe appropriate alternatives to recommended courses of action in any proposal which involves unresolved conflicts concerning alternative uses of available resources;

(E) recognize the worldwide and long-range character of environmental problems and, where consistent with the foreign policy of the United States, lend appropriate support to initiatives, resolutions, and programs designed to maximize international cooperation in anticipating and preventing a decline in the quality of mankind's world environment;

(F) make available to States, counties, municipalities, institutions, and individuals, advice and information useful in restoring, maintaining, and enhancing the quality of the environment;

(G) initiate and utilize ecological information in the planning and development of resource-oriented projects; and

(H) assist the Council on Environmental Quality established by subchapter II of this chapter.

Pub.L. 91-190, Title I, § 102, Jan. 1, 1970, 83 Stat. 853.

§ 4333. Conformity of administrative procedures to national environmental policy

All agencies of the Federal Government shall review their present statutory authority, administrative regulations, and current policies and procedures for the purpose of determining whether there are any deficiencies or inconsistencies therein which prohibit full compliance with the purposes and provisions of this chapter and shall propose to the President not later than July 1, 1971, such measures as may be necessary to bring their authority and policies into conformity with the intent, purposes, and procedures set forth in this chapter.

Pub.L. 91-190, Title I, § 103, Jan. 1, 1970, 83 Stat. 854.

§ 4334. Other statutory obligations of agencies

Nothing in section 4332 or 4333 of this title shall in any way affect the specific statutory obligations of any Federal agency (1) to comply with criteria or standards of environmental quality, (2) to coordinate or consult with any other Federal or State agency, or (3) to act, or refrain from acting contingent upon the recommendations or certification of any other Federal or State agency.

Pub.L. 91-190, Title I,§ 104, Jan. 1, 1970, 83 Stat. 854.

§ 4335. Efforts supplemental to existing authorizatons

The policies and goals set forth in this chapter are supplementary to those set forth in existing authorizations of Federal agencies.

Pub.L. 91-190, Title I, § 105, Jan. 1, 1970, 83 Stat. 854.

SUBCHAPTER II.—COUNCIL ON ENVIRONMENTAL QUALITY

§ 4341. Reports to Congress; recommendations for legislation

The President shall transmit to the Congress annually beginning July 1, 1970, an Environmental Quality Report (hereinafter referred to as the "report") which shall set forth (1) the status and condition of the major natural, manmade, or altered environmental classes of the Nation, including, but not limited to, the air, the aquatic, including marine, estuarine, and fresh water, and the terrestrial environment, including, but not limited to, the forest, dryland, wetland, range, urban, suburban, and rural environment; (2) current and foreseeable trends in the quality, management and utilization of such environments and the effects of those trends on the social, economic, and other requirements of the Nation; (3) the adequacy of available natural resources for fulfilling human and economic requirements of the Nation in the light of expected population pressures; (4) a review of the programs and activities (including regulatory activities) of the Federal Government, the State and local governments, and nongovernmental entities or individuals, with particular reference to their effect on the environment and on the conservation, development and utilization of natural resources; and (5) a program for remedying the deficiencies of existing programs and activities, together with recommendations for legislation.

Pub.L. 91-190, Title II, § 201, Jan. 1, 1970, 83 Stat. 854.

§ 4342. Establishment; membership; Chairman; appointments

There is created in the Executive Office of the President a Council on Environmental Quality (hereinafter referred to as the "Council"). The Council shall be composed of three members who shall be appointed by the President to serve at his pleasure, by and with the advice and consent of the Senate. The President shall designate one of the members of the Council to serve as Chairman. Each member shall be a person who, as a result of his training, experience, and attainments, is exceptionally well qualified to analyze and interpret environmental trends and information of all kinds; to appraise programs and activities of the Federal Government in the light of the policy set forth in subchapter I of this chapter; to be conscious of and responsive to the scientific, economic, social, esthetic, and cultural needs and interests of the Nation; and to formulate and recommend national policies to promote the improvement of the quality of the environment.

Pub.L. 91-190, Title II, § 202, Jan. 1, 1970, 83 Stat. 854.

§ 4343. Employment of personnel, experts and consultants

The Council may employ such officers and employees as may be necessary to carry out its functions under this chapter. In addition, the Council may employ and fix the compensation of such experts and consultants as may be necessary for the carrying out of its functions under this chapter, in accordance with section

3109 of Title 5 (but without regard to the last sentence thereof). Pub.L. 91–190, Title II, § 203, Jan. 1, 1970, 83 Stat. 855.

§ 4314. Duties and functions

It shall be the duty and function of the Council—

(1) to assist and advise the President in the preparation of the Environmental Quality Report required by section 4341 of this title;

(2) to gather timely and authoritative information concerning the conditions and trends in the quality of the environment both current and prospective, to analyze and interpret such information for the purpose of determining whether such conditions and trends are interfering, or are likely to interfere, with the achievement of the policy set forth in subchapter I of this chapter, and to compile and submit to the President studies relating to such conditions and trends;

(3) to review and appraise the various programs and activities of the Federal Government in the light of the policy set forth in subchapter I of this chapter for the purpose of determining the extent to which such programs and activities are contributing to the achievement of such policy, and to make recommendations to the President with respect thereto;

(4) to develop and recommend to the President national policies to foster and promote the improvement of environmental quality to meet the conservation, social, economic, health, and other requirements and goals of the Nation;

(5) to conduct investigations, studies, surveys, research, and analyses relating to ecological systems and environmental quality;

(6) to document and define changes in the natural environment, including the plant and animal systems, and to accumulate necessary data and other information for a continuing analysis of these changes or trends and an interpretation of their underlying causes;

(7) to report at least once each year to the President on the state and condition of the environment; and

(8) to make and furnish such studies, reports thereon, and recommendations with respect to matters of policy and legislation as the President may request.

Pub.L. 91–190, Title II, § 204, Jan. 1, 1970, 83 Stat. 855.

§ 4345. Consultation with the Citizen's Advisory Committee on Environmental Quality and other representatives

In exercising its powers, functions, and duties under this chapter, the Council shall—

(1) consult with the Citizens' Advisory Committee on Environmental Quality established by Executive Order numbered 11472, dated May 29, 1969, and with such representatives of science, industry, agriculture, labor, conservation organizations, State and local governments and other groups, as it deems advisable; and

(2) utilize, to the fullest extent possible, the services, facilities, and information (including statistical information) of public and private agencies and organizations, and individuals, in order that duplication of effort and expense may be avoided, thus assuring that the Council's activities will not unnecessarily overlap or conflict with similar activities authorized by law and performed by established agencies.

Pub.L. 91–190, Title II, § 205, Jan. 1, 1970, 83 Stat. 855.

§ 4346. Tenure and compensation of members

Members of the Council shall serve full time and the Chairman of the Council shall be compensated at the rate provided for Level II of the Executive Schedule Pay Rates. The other members of the Council shall be compensated at the rate provided for Level IV or the Executive Schedule Pay Rates.

Pub.L. 91–190, Title II, § 206, Jan. 1, 1970, 83 Stat. 856.

§ 4347. Authorization of appropriations

There are authorized to be appropriated to carry out the provisions of this chapter not to exceed $300,000 for fiscal year 1970, $700,000 for fiscal year 1971, and $1,000,000 for each fiscal year thereafter.

Pub.L. 91–190, Title II, § 207, Jan. 1, 1970, 83 Stat. 856.

CLEAN AIR ACT
Section 309

§ 1857h—7. Policy review

(a) The Administrator shall review and comment in writing on the environmental impact of any matter relating to duties and responsibilities granted pursuant to this chapter or other provisions of the authority of the Administrator, contained in any (1) legislation proposed by any Federal department or agency, (2) newly authorized Federal projects for construction and any major Federal agency action (other than a project for construction) to which section 4332(2) (C) of this title applies, and (3) proposed regulations published by any department or agency of the Federal Government. Such written comment shall be made public at the conclusion of any such review.

(b) In the event the Administrator determines that any such legislation, action, or regulation is unsatisfactory from the standpoint of public health or welfare or environmental quality, he shall publish his determination and the matter shall be referred to the Council on Environmental Quality.

July 14, 1955, c. 360, § 309, as added Dec. 31, 1970, Pub.L. 91-604, § 12(a), 84 Stat. 1709.

DEPARTMENT OF TRANSPORTATION ACT
Section 4(f)

Maintenance and enhancement of natural beauty of land traversed by transportation lines

(f) It is hereby declared to be the national policy that special effort should be made to preserve the natural beauty of the countryside and public park and recreation lands, wildlife and waterfowl refuges, and historic sites. The Secretary of Transportation shall cooperate and consult with the Secretaries of the Interior, Housing and Urban Development, and Agriculture, and with the States in developing transportation plan and program that include measures to maintain or enhance the natural beauty of the lands traversed. After August 23, 1968, the Secretary shall not approve any program or project which requires the use of any publicly owned land from a public park, recreation area, or wildlife and waterfowl refuge of national, State, or local significance as determined by the Federal, State, or local officials having jurisdiction thereof, or any land from an historic site of national, State, or local significance as so determined by such officials unless (1) there is no feasible and prudent alternative to the use of such land, and (2) such program includes all possible planning to minimize harm to such park, recreational area, wildlife and waterfowl refuge, or historic site resulting from such use.

EXECUTIVE ORDER 11514

March 5, 1970, 35 Fed. Reg. 4247.

PROTECTION AND ENHANCEMENT OF ENVIRONMENTAL QUALITY

By virtue of the authority vested in me as President of the United States and in furtherance of the purpose and policy of the National Environmental Policy Act of 1969 (Public Law No. 91–190, approved January 1, 1970), it is ordered as follows:

Section 1. Policy. The Federal Government shall provide leadership in protecting and enhancing the quality of the Nation's environment to sustain and enrich human life. Federal agencies shall initiate measures needed to direct their policies, plans and programs so as to meet national environmental goals. The Council on Environmental Quality, through the Chairman, shall advise and assist the President in leading this national effort.

Sec. 2. Responsibilities of Federal agencies. Consonant with Title I of the National Environmental Policy Act of 1969, hereafter referred to as the "Act", the heads of Federal agencies shall:

(a) Monitor, evaluate, and control on a continuing basis their agencies' activities so as to protect and enhance the quality of the environment. Such activities shall include those directed to controlling pollution and enhancing the environment and those designed to accomplish other program objectives which may affect the quality of the environment. Agencies shall develop programs and measures to protect and enhance environmental quality and shall assess progress in meeting the specific objectives of such activities. Heads of agencies shall consult with appropriate Federal, State and local agencies in carrying out their activities as they affect the quality of the environment.

(b) Develop procedures to ensure the fullest practicable provision of timely public information and understanding of Federal plans and programs with environmental impact in order to obtain the views of interested parties. These procedures shall include, whenever appropriate, provision for public hearings, and shall provide the public with relevant information, including information on alternative courses of action. Federal agencies shall also encourage State and local agencies to adopt similar procedures for informing the public concerning their activities affecting the quality of the environment.

(c) Insure that information regarding existing or potential environmental problems and control methods developed as part of research, development, demonstration, test, or evaluation activities is made available to Federal agencies, States, counties, municipalities, institutions, and other entities, as appropriate.

(d) Review their agencies' statutory authority, administrative regulations, policies, and procedures, including those relating to loans, grants, contracts, leases, licenses, or permits, in order to identify any deficiencies or inconsistencies therein which prohibit or limit full compliance with the purposes and provisions of the Act. A report on this review and the corrective actions taken or planned, including such measures to be proposed to the President as may be necessary to bring their authority and policies into conformance with the intent, purposes, and procedures of the Act, shall be provided to the Council on Environmental Quality not later than September 1, 1970.

(e) Engage in exchange of data and research results, and cooperate with agencies of other governments to foster the purposes of the Act.

(f) Proceed, in coordination with other agencies, with actions required by section 102 of the Act.

Sec. 3. Responsibilities of Council on Environmental Quality. The Council on Environmental Quality shall:

(a) Evaluate existing and proposed policies and activities of the Federal Government directed to the control of pollution and the enhancement of the environment and to the accomplishment of other objectives which affect the quality of the environment. This shall include continuing review of procedures employed in the development and enforcement of Federal standards affecting environmental quality. Based upon such evaluations the Council shall, where appropriate, recommend to the President policies and programs to achieve more effective protection and enhancement of environmental quality and shall, where appropriate, seek resolution of significant environmental issues.

(b) Recommend to the President and to the agencies priorities among programs designed for the control of pollution and for enhancement of the environment.

(c) Determine the need for new policies and programs for dealing with environmental problems not being adequately addressed.

(d) Conduct, as it determines to be appropriate, public hearings or conferences on issues of environmental significance.

(e) Promote the development and use of indices and monitoring systems (1) to assess environmental conditions and trends, (2) to predict the environmental impact of proposed public and private actions, and (3) to determine the effectiveness of programs for protecting and enhancing environmental quality.

(f) Coordinate Federal programs related to environmental quality.

(g) Advise and assist the President and the agencies in achieving international cooperation for dealing with environmental problems, under the foreign policy guidance of the Secretary of State.

(h) Issue guidelines to Federal agencies for the preparation of detailed statements on proposals for legislation and other Federal actions affecting the environment, as required by section 102(2)(C) of the Act.

(i) Issue such other instructions to agencies, and request such reports and other information from them, as may be required to carry out the Council's responsibilities under the Act.

(j) Assist the President in preparing the annual Environmental Quality Report provided for in section 201 of the Act.

(k) Foster investigations, studies, surveys, research, and analyses relating to (i) ecological systems and environmental quality, (ii) the impact of new and changing technologies thereon, and (iii) means of preventing or reducing adverse effects from such technologies.

Sec. 4. Amendments of E.O. 11472. Executive Order No. 11472 of May 29, 1969, including the heading thereof, is hereby amended:

(1) By substituting for the term "the Environmental Quality Council", wherever it occurs, the following: "the Cabinet Committee on the Environment".

(2) By substituting for the term "the Council", wherever it occurs, the following: "the Cabinet Committee".

(3) By inserting in subsection (f) of section 101, after "Budget,", the following: "the Director of the Office of Science and Technology,".

(4) By substituting for subsection (g) of section 101 the following:

"(g) The Chairman of the Council on Environmental Quality (established by Public Law 91-190) shall assist the President in directing the affairs of the Cabinet Committee."

(5) By deleting subsection (c) of section 102.

(6) By substituting for "the Office of Science and Technology", in section 104, the following: "the Council on Environmental Quality (established by Public Law 91-190)".

(7) By substituting for "(hereinafter referred to as the 'Committee')", in section 201, the following: "(hereinafter referred to as the 'Citizens' Committee')".

(8) By substituting for the term "the Committee", wherever it occurs, the following: "the Citizens' Committee".

RICHARD NIXON

COUNCIL ON ENVIRONMENTAL QUALITY

STATEMENTS ON PROPOSED FEDERAL ACTIONS AFFECTING THE ENVIRONMENT

Guidelines

1. *Purpose.* This memorandum provides guidelines to Federal departments, agencies, and establishments for preparing detailed environmental statements on proposals for legislation and other major Federal actions significantly affecting the quality of the human environment as required by section 102(2)(C) of the National Environmental Policy Act (Public Law 91–190) (hereafter "the Act"). Underlying the preparation of such environmental statements is the mandate of both the Act and Executive Order 11514 (35 F.R. 4247) of March 4, 1970, that all Federal agencies, to the fullest extent possible, direct their policies, plans and programs so as to meet national environmental goals. The objective of section 102(2)(C) of the Act and of these guidelines is to build into the agency decision making process an appropriate and careful consideration of the environmental aspects of proposed action and to assist agencies in implementing not only the letter, but the spirit, of the Act. This memorandum also provides guidance on implementation of section 309 of the Clean Air Act, as amended (42 U.S.C. 1857 et seq.).

2. *Policy.* As early as possible and in all cases prior to agency decision concerning major action or recommendation or a favorable report on legislation that significantly affects the environment, Federal agencies will, in consultation with other appropriate Federal, State, and local agencies, assess in detail the potential environmental impact in order that adverse effects are avoided, and environmental quality is restored or enhanced, to the fullest extent practicable. In particular, alternative actions that will minimize adverse impact should be explored and both the long- and short-range implications to man, his physical and social surroundings, and to nature, should be evaluated in order to avoid to the fullest extent practicable undesirable consequences for the environment.

3. *Agency and OMB procedures.* (a) Pursuant to section 2(f) of Executive Order 11514, the heads of Federal agencies have been directed to proceed with measures required by section 102(2)(C) of the Act. Consequently, each agency will establish, in consultation with the Council on Environmental Quality, not later than June 1, 1970 (and, by July 1, 1971, with respect to requirements imposed by revisions in these guidelines, which will apply to draft environmental statements circulated after June 30, 1971), its own formal procedures for (1) identifying those agency actions requiring environmental statements, the appropriate time prior to decision for the consultations required by section 102(2)(C), and the agency review process for which environmental statements are to be available, (2) obtaining information required in their preparation, (3) designating the officials who are to be responsible for the statements, (4) consulting with and taking account of the comments of appropriate Federal, State, and local agencies, including obtaining the comment of the Administrator of the Environmental Protection Agency, whether or not an environmental statement is prepared, when required under section 309 of the Clean Air Act, as amended, and section 8 of these guidelines, and (5) meeting the requirements of section 2(b) of Executive Order 11514 for providing timely public information on Federal plans and programs with environmental impact including procedures responsive to section 10 of these guidelines. These procedures should be consonant with the guidelines contained herein. Each agency should file seven (7) copies of all such procedures with the Council on Environmental Quality, which will provide advice to agencies in the preparation of their procedures and guidance on the application and interpretation of the Council's guidelines. The Environmental Protection Agency will assist in resolving any question relating to section 309 of the Clean Air Act, as amended.

(b) Each Federal agency should consult, with the assistance of the Council on Environmental Quality and the Office of Management and Budget if desired, with other appropriate Federal agencies in the development of the above procedures so as to achieve consistency in dealing with similar activities and to assure effective coordination among agencies in their review of proposed activities.

(c) State and local review of agency procedures, regulations, and policies for the administration of Federal programs of assistance to State and local governments will be conducted pursuant to procedures established by the Office of Management and Budget Circular No. A–85. For agency procedures subject to OMB Circular No. A–85 a 30-day extension in the July 1, 1971, deadline set in section 3(a) is granted.

(d) It is imperative that existing mechanisms for obtaining the views of Federal, State, and local agencies on proposed Federal actions be utilized to the extent practicable in dealing with environmental matters. The Office of Management and Budget will issue instructions, as necessary, to take full advantage of existing mechanisms (relating to procedures for handling legislation, preparation of budgetary materials, new procedures, water resource and other projects, etc.).

4. *Federal agencies included.* Section 102(2)(C) applies to all agencies of the Federal Government with respect to recommendations or favorable reports on proposals for (i) legislation and (ii) other major Federal actions significantly affecting the quality of the human environment. The phrase "to the fullest extent possible" in section 102(2)(C) is meant to make clear that each agency of the Federal Government shall comply with the requirement unless existing law applicable to the agency's operations expressly prohibits or makes compliance impossible. (Section 105 of the Act provides that "The policies and goals set forth in this Act are supplementary to those set forth in existing authorizations of Federal agencies.")

5. *Actions included.* The following criteria will be employed by agencies in deciding whether a proposed action requires the preparation of an environmental statement:

(a) "Actions" include but are not limited to:

(i) Recommendations or favorable reports relating to legislation including that for appropriations. The requirement for following the section 102(2)(C) procedure as elaborated in these guidelines applies to both (i) agency recommendations on their own proposals for legislation and (ii) agency reports on legislation initiated elsewhere. (In the latter case only the agency which has primary responsibility for the subject matter involved will prepare an environmental statement.) The Office of Management and Budget will supplement these general guidelines with specific instructions relating to the way in which the section 102(2)(C) procedure fits into its legislative clearance process;

(ii) Projects and continuing activities: directly undertaken by Federal agencies; supported in whole or in part through Federal contracts, grants, subsidies, loans, or other forms of funding assistance; involving a Federal lease, permit, license, certificate or other entitlement for use;

(iii) Policy, regulations, and procedure-making.

(b) The statutory clause "major Federal actions significantly affecting the quality of the human environment" is to be construed by agencies with a view to the overall, cumulative impact of the action proposed (and of further actions contemplated). Such actions may be localized in their impact, but if there is potential that the environment may be significantly affected, the statement is to be prepared. Proposed actions, the environmental impact of which is likely to be highly controversial, should be covered in all cases. In considering what constitutes major action significantly affecting the environment, agencies should bear in mind that the effect of many Federal decisions about a project or complex of projects can be individually limited but cumulatively considerable. This can occur when one or more agencies over a period of years puts into a project individually minor but collectively major resources, when one decision involving a limited amount of money is a precedent for action in much larger cases or represents a decision in principle about a future major course of action, or when several Government agencies individually make decisions about partial aspects of a major action. The lead agency should prepare an environmental statement if it is reasonable to anticipate a cumulatively significant impact on the environment from Federal action. "Lead agency" refers to the Federal agency which has primary authority for committing the Federal Government to a course of action with significant environmental impact. As necessary, the Council on Environmental Quality will assist in resolving questions of lead agency determination.

(c) Section 101(b) of the Act indicates the broad range of aspects of the environment to be surveyed in any assessment of significant effect. The Act also indicates that adverse significant effects include those that degrade the quality of the environment, curtail the range of beneficial uses of the environment, and serve short-term, to the disadvantage of long-term, environmental goals. Significant effects can also include actions which may have both beneficial and detrimental effects, even if, on balance, the agency believes that the effect will be beneficial. Significant adverse effects on the quality of the human environment include both those that directly affect human beings and those that indirectly affect human beings through adverse effects on the environment.

(d) Because of the Act's legislative history, environmental protective regulatory activities concurred in or taken by the Environmental Protection Agency are not deemed actions which require the preparation of environmental statements under section 102(2)(C) of the Act.

6. *Content of environmental statement.* (a) The following points are to be covered:

(i) A description of the proposed action including information and technical data adequate to permit a careful assessment of environmental impact by commenting agencies. Where relevant, maps should be provided.

(ii) The probable impact of the proposed action on the environment, including impact on ecological systems such as wildlife, fish, and marine life. Both primary and secondary significant consequences for the environment should be included in the analysis. For example, the implications, if any, of the action for population distribution or concentration should be estimated and an assessment made of the effect of any possible change in population patterns upon the resource base, including land use, water, and public services, of the area in question.

(iii) Any probable adverse environmental effects which cannot be avoided (such as water or air pollution, undesirable land use patterns, damage to life systems, urban congestion, threats to health or other consequences adverse to the environmental goals set out in section 101(b) of the Act).

(iv) Alternatives to the proposed [illegible] are [illegible] courses of action in any proposal which involves unresolved conflicts concerning alternative uses of available resources"). A rigorous exploration and objective evaluation of alternative actions that might avoid some or all of the adverse environmental effects is essential. Sufficient analysis of such alternatives and their costs and impact on the environment should accompany the proposed action through the agency review process in order not to foreclose prematurely options which might have less detrimental effects.

(v) The relationship between local short-term uses of man's environment and the maintenance and enhancement of long-term productivity. This in essence requires the agency to assess the action for cumulative and long-term effects from the perspective that each generation is trustee of the environment for succeeding generations.

(vi) Any irreversible and irretrievable commitments of resources which would be involved in the proposed action should it be implemented. This requires the agency to identify the extent to which the action curtails the range of beneficial uses of the environment.

(vii) Where appropriate, a discussion of problems and objections raised by other Federal, State, and local agencies and by private organizations and individuals in the review process and the disposition of the issues involved. (This section may be added at the end of the review process in the final text of the environmental statement.)

(b) With respect to water quality aspects of the proposed action which have been previously certified by the appropriate State or interstate organization as being in substantial compliance with applicable water quality standards, the comment of the Environmental Protection Agency should also be requested.

(c) Each environmental statement should be prepared in accordance with the precept in section 102(2)(A) of the Act that all agencies of the Federal Government "utilize a systematic, interdisciplinary approach which will insure the integrated use of the natural and social sciences and the environmental design arts in planning and decisionmaking which may have an impact on man's environment."

(d) Where an agency follows a practice of declining to favor an alternative until public hearings have been held on a proposed action, a draft environmental statement may be prepared and circulated indicating that two or more alternatives are under consideration.

(e) Appendix 1 prescribes the form of the summary sheet which should accompany each draft and final environmental statement.

7. Federal agencies to be consulted in connection with preparation of environmental statement. A Federal agency considering an action requiring an environmental statement, on the basis of [illegible] by a hearing, subject to the provisions of the Administrative Procedure Act, should consult with, and obtain the comment on the environmental impact of the action of, Federal agencies with jurisdiction by law or special expertise with respect to any environmental impact involved. These Federal agencies include components of (depending on the aspect or aspects of the environment):

Advisory Council on Historic Preservation.
Department of Agriculture.
Department of Commerce.
Department of Defense.
Department of Health, Education, and Welfare.
Department of Housing and Urban Development.
Department of the Interior.
Department of State.
Department of Transportation.
Atomic Energy Commission.
Federal Power Commission.
Environmental Protection Agency.
Office of Economic Opportunity.

For actions specifically affecting the environment of their geographic jurisdictions, the following Federal and Federal-State agencies are also to be consulted:

Tennessee Valley Authority.
Appalachian Regional Commission.
National Capital Planning Commission.
Delaware River Basin Commission.
Susquehanna River Basin Commission.

Agencies seeking comment should determine which one or more of the above listed agencies are appropriate to consult on the basis of the areas of expertise identified in Appendix 2 to these guidelines. It is recommended (i) that the above listed departments and agencies establish contact points, which often are most appropriately regional offices, for providing comments on the environmental statements and (ii) that departments from which comment is solicited coordinate and consolidate the comments of their component entities. The requirement in section 102(2)(C) to obtain comment from Federal agencies having jurisdiction or special expertise is in addition to any specific statutory obligation of any Federal agency to coordinate or consult with any other Federal or State agency. Agencies seeking comment may establish time limits of not less than thirty (30) days for reply, after which it may be presumed, unless the agency consulted requests a specified extension of time, that the agency consulted has no comment to make. Agencies seeking comment should endeavor to comply with requests for extensions of time of up to fifteen (15) days.

8. *Interim EPA procedures for implementation of section 309 of the Clean Air Act, as amended.* (a) Section 309 of the Clean Air Act, as amended, provides:

> SEC. 309. (a) The Administrator shall review and comment in writing on the environmental impact of any matter relating to duties and responsibilities granted pursuant to this Act or other provisions of the authority of the Administrator, contained in any (1) legislation proposed by any Federal de- [illegible] project for construction) to which section 102(2)(C) of Public Law 91-190 applies, and (3) proposed regulations published by any

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department or agency of the Federal Government. Such written comment shall be made public at the conclusion of any such review.

(b) In the event the Administrator determines that any such legislation, action, or regulation is unsatisfactory from the standpoint of public health or welfare or environmental quality, he shall publish his determination and the matter shall be referred to the Council on Environmental Quality.

(b) Accordingly, wherever an agency action related to air or water quality, noise abatement and control, pesticide regulation, solid waste disposal, radiation criteria and standards, or other provisions of the authority of the Administrator if the Environmental Protection Agency is involved, including his enforcement authority, Federal agencies are required to submit for review and comment by the Administrator in writing: (i) proposals for new Federal construction projects and other major Federal agency actions to which section 102(2)(C) of the National Environmental Policy Act applies and (ii) proposed legislation and regulations, whether or not section 102(2)(C) of the National Environmental Policy Act applies. (Actions requiring review by the Administrator do not include litigation or enforcement proceedings.) The Administrator's comments shall constitute his comments for the purposes of both section 309 of the Clean Air Act and section 102(2)(C) of the National Environmental Policy Act. A period of 45 days shall be allowed for such review. The Administrator's written comment shall be furnished to the responsible Federal department or agency, to the Council on Environmental Quality and summarized in a notice published in the Federal Register. The public may obtain copies of such comment on request from the Environmental Protection Agency.

9. *State and local review.* Where no public hearing has been held on the proposed action at which the appropriate State and local review has been invited, and where review of the environmental impact of the proposed action by State and local agencies authorized to develop and enforce environmental standards is relevant, such State and local review shall be provided as follows:

(a) For direct Federal development projects and projects assisted under programs listed in Attachment D of the Office of Management and Budget Circular No. A–95, review of draft environmental statements by State and local governments will be through procedures set forth under Part 1 of Circular No. A–95.

(b) Where these procedures are not appropriate and where a proposed action affects matters within their jurisdiction, review of the draft environmental statement on a proposed action by State and local agencies authorized to develop and enforce environmental standards and their comments on the environmental impact of the proposed action may be obtained directly or by distributing the draft environmental statement to the appropriate State, regional and metropolitan clearinghouses unless the Governor of the State involved has designated some other point for obtaining this review.

10. *Use of statements in agency review processes; distribution to Council on Environmental Quality; availability to public.* (a) Agencies will need to identify at what stage or stages of a series of actions relating to a particular matter the environmental statement procedures of this directive will be applied. It will often be necessary to use the procedures both in the development of a national program and in the review of proposed projects within the national program. However, where a grant-in-aid program does not entail prior approval by Federal agencies of specific projects the view of Federal, State, and local agencies in the legislative process may have to suffice. The principle to be applied is to obtain views of other agencies at the earliest feasible time in the development of program and project proposals. Care should be exercised so as not to duplicate the clearance process, but when actions being considered differ significantly from those that have already been reviewed pursuant to section 102(2)(C) of the Act an environmental statement should be provided.

(b) Ten (10) copies of draft environmental statements (when prepared), ten (10) copies of all comments made thereon (to be forwarded to the Council by the entity making comment at the time comment is forwarded to the responsible agency), and ten (10) copies of the final text of environmental statements (together with all comments received thereon by the responsible agency from Federal, State, and local agencies and from private organizations and individuals) shall be supplied to the Council on Environmental Quality in the Executive Office of the President (this will serve as making environmental statements available to the President). It is important that draft environmental statements be prepared and circulated for comment and furnished to the Council early enough in the agency review process before an action is taken in order to permit meaningful consideration of the environmental issues involved. To the maximum extent practicable no administrative action (i.e., any proposed action to be taken by the agency other than agency proposals for legislation to Congress or agency reports on legislation) subject to section 102(2)(C) is to be taken sooner than ninety (90) days after a draft environmental statement has been circulated for comment, furnished to the Council and, except where advance public disclosure will result in significantly increased costs of procurement to the Government, made available to the public pursuant to these guidelines; neither should such administrative action be taken sooner than thirty (30) days after the final text of an environmental statement (together with comments) has been made available to the Council and the public. If the final text of an environmental statement is filed within ninety (90) days after a draft statement has been circulated for comment, furnished to the Council and made public pursuant to this section of these guidelines, the thirty (30) day period and ninety (90) day period may run concurrently to the extent that they overlap.

(c) With respect to recommendations or reports on proposals for legislation to which section 102(2)(C) applies, the final text of the environmental statement and comments thereon should be available to the Congress and to the public in support of the proposed legislation or report. In cases where the scheduling of congressional hearings on recommendations or reports on proposals for legislation which the Federal agency has forwarded to the Congress does not allow adequate time for the completion of a final text of an environmental statement (together with comments), a draft environmental statement may be furnished to the Congress and made available to the public pending transmittal of the comments as received and the final text.

(d) Where emergency circumstances make it necessary to take an action with significant environmental impact without observing the provisions of these guidelines concerning minimum periods for agency review and advance availability of environmental statements, the Federal agency proposing to take the action should consult with the Council on Environmental Quality about alternative arrangements. Similarly, where there are overriding considerations of expense to the Government or impaired program effectiveness, the responsible agency should consult the Council concerning appropriate modifications of the minimum periods.

(e) In accord with the policy of the National Environmental Policy Act and Executive Order 11514 agencies have a responsibility to develop procedures to insure the fullest practicable provision of timely public information and understanding of Federal plans and programs with environmental impact in order to obtain the views of interested parties. These procedures shall include, whenever appropriate, provision for public hearings, and shall provide the public with relevant information, including information on alternative courses of action. Agencies which hold hearings on proposed administrative actions or legislation should make the draft environmental statement available to the public at least fifteen (15) days prior to the time of the relevant hearings except where the agency prepares the draft statement on the basis of a hearing subject to the Administrative Procedure Act and preceded by adequate public notice and information to identify the issues and obtain the comments provided for in sections 6–9 of these guidelines.

(f) The agency which prepared the environmental statement is responsible for making the statement and the comments received available to the public pursuant to the provisions of the Freedom of Information Act (5 U.S.C., sec. 552), without regard to the exclusion of interagency memoranda when such memoranda transmit comments of Federal agencies listed in section 7 of these guidelines upon the environmental impact of proposed actions subject to section 102(2)(C).

(g) Agency procedures prepared pursuant to section 3 of these guidelines shall implement these public information requirements and shall include arrangements for availability of environmental statements and comments at the head and appropriate regional offices of the responsible agency and at appropriate State, regional, and metropolitan clearinghouses unless the Governor of the State involved designates some other point for receipt of this information.

11. *Application of section 102(2)(C) procedure to existing projects and programs.* To the maximum extent practicable the section 102(2)(C) procedure should be applied to further major Federal actions having a significant effect on the environment even though they arise from projects or programs initiated prior to enactment of the Act on January 1, 1970. Where it is not practicable to reassess the basic course of action, it is still important that further incremental major actions be shaped so as to minimize adverse environmental consequences. It is also important in further action that account be taken of environmental consequences not fully evaluated at the outset of the project or program.

12. *Supplementary guidelines, evaluation of procedures.* (a) The Council on Environmental Quality after examining environmental statements and agency procedures with respect to such statements will issue such supplements to these guidelines as are necessary.

(b) Agencies will continue to assess their experience in the implementation of the section 102(2)(C) provisions of the Act and in conforming with these guidelines and report thereon to the Council on Environmental Quality by December 1, 1971. Such reports should include an identification of the problem areas and suggestions for revision or clarification of these guidelines to achieve effective coordination of views on environmental aspects (and alternatives, where appropriate) of proposed actions without imposing unproductive administrative procedures.

RUSSELL E. TRAIN,
Chairman.

APPENDIX I

(Check one) ( ) Draft. ( ) Final Environmental Statement.

Name of Responsible Federal Agency (with name of operating division where appropriate).

1. Name of Action. (Check one) ( ) Administrative Action. ( ) Legislative Action.

2. Brief description of action indicating what States (and counties) particularly affected.

3. Summary of environmental impact and adverse environmental effects.

4. List alternatives considered.

5. a. (For draft statements) List all Federal, State, and local agencies from which comments have been requested.

b. (For final statements) List all Federal, State, and local agencies and other sources from which written comments have been received.

6. Dates draft statement and final statement made available to Council on Environmental Quality and public.

APPENDIX II—FEDERAL AGENCIES WITH JURISDICTION BY LAW OR SPECIAL EXPERTISE TO COMMENT ON VARIOUS TYPES OF ENVIRONMENTAL IMPACTS

AIR

Air Quality and Air Pollution Control

- Department of Agriculture—
  - Forest Service (effects on vegetation).
- Department of Health, Education, and Welfare (Health aspects).
- Environmental Protection Agency—
  - Air Pollution Control Office.
- Department of the Interior—
  - Bureau of Mines (fossil and gaseous fuel combustion).
  - Bureau of Sport Fisheries and Wildlife (wildlife).
- Department of Transportation—
  - Assistant Secretary for Systems Development and Technology (auto emissions).
  - Coast Guard (vessel emissions).
  - Federal Aviation Administration (aircraft emissions).

Weather Modification

- Department of Commerce—
  - National Oceanic and Atmospheric Administration.
- Department of Defense—
  - Department of the Air Force.
- Department of the Interior—
  - Bureau of Reclamation.

ENERGY

Environmental Aspects of Electric Energy Generation and Transmission

- Atomic Energy Commission (nuclear power).
- Environmental Protection Agency—
  - Water Quality Office.
  - Air Pollution Control Office.
- Department of Agriculture—
  - Rural Electrification Administration (rural areas).
- Department of Defense—
  - Army Corps of Engineers (hydro-facilities).
- Federal Power Commission (hydro-facilities and transmission lines).
- Department of Housing and Urban Development (urban areas).
- Department of the Interior—(facilities on Government lands).

Natural Gas Energy Development, Transmission and Generation

- Federal Power Commission (natural gas production, transmission and supply).
- Department of the Interior—
  - Geological Survey.
  - Bureau of Mines.

HAZARDOUS SUBSTANCES

Toxic Materials

- Department of Commerce—
  - National Oceanic and Atmospheric Administration.
- Department of Health, Education and Welfare (Health aspects).
- Environmental Protection Agency.
- Department of Agriculture—
  - Agricultural Research Service.
  - Consumer and Marketing Service.
- Department of Defense.
- Department of the Interior—
  - Bureau of Sport Fisheries and Wildlife.

Pesticides

- Department of Agriculture—
  - Agricultural Research Service (biological controls, food and fiber production).
  - Consumer and Marketing Service.
  - Forest Service.
- Department of Commerce—
  - National Marine Fisheries Service.
  - National Oceanic and Atmospheric Administration.
- Environmental Protection Agency—
  - Office of Pesticides.
- Department of the Interior—
  - Bureau of Sport Fisheries and Wildlife (effects on fish and wildlife).
  - Bureau of Land Management.
- Department of Health, Education, and Welfare (Health aspects).

Herbicides

- Department of Agriculture—
  - Agricultural Research Service.
  - Forest Service.
- Environmental Protection Agency—
  - Office of Pesticides.
- Department of Health, Education, and Welfare (Health aspects).
- Department of the Interior—
  - Bureau of Sport Fisheries and Wildlife.
  - Bureau of Land Management.
  - Bureau of Reclamation.

Transportation and Handling of Hazardous Materials

- Department of Commerce—
  - Maritime Administration.
  - National Marine Fisheries Service.
  - National Oceanic and Atmospheric Administration (impact on marine life).
- Department of Defense—
  - Armed Services Explosive Safety Board.
  - Army Corps of Engineers (navigable waterways).
- Department of Health, Education, and Welfare—
  - Office of the Surgeon General (Health aspects).
- Department of Transportation—
  - Federal Highway Administration Bureau of Motor Carrier Safety.
  - Coast Guard.
  - Federal Railroad Administration.
  - Federal Aviation Administration.
  - Assistant Secretary for Systems Development and Technology.
  - Office of Hazardous Materials.
  - Office of Pipeline Safety.
- Environmental Protection Agency (hazardous substances).
- Atomic Energy Commission (radioactive substances).

LAND USE AND MANAGEMENT

Coastal Areas: Wetlands, Estuaries, Waterfowl Refuges, and Beaches

- Department of Agriculture—
  - Forest Service.
- Department of Commerce—
  - National Marine Fisheries Service (impact on marine life).
  - National Oceanic and Atmospheric Administration (impact on marine life).
- Department of Transportation—
  - Coast Guard (bridges, navigation).
- Department of Defense—
  - Army Corps of Engineers (beaches, dredge and fill permits, Refuse Act permits).
- Department of the Interior—
  - Bureau of Sport Fisheries and Wildlife.
  - National Park Service.
  - U.S. Geological Survey (coastal geology).
  - Bureau of Outdoor Recreation (beaches).
- Department of Agriculture—
  - Soil Conservation Service (soil stability, hydrology).
- Environmental Protection Agency—
  - Water Quality Office.

Historic and Archeological Sites

- Department of the Interior—
  - National Park Service.
- Advisory Council on Historic Preservation—

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- Department of Housing and Urban Development (urban areas).

Flood Plains and Watersheds

- Department of Agriculture—
  - Agricultural Stabilization and Research Service.
  - Soil Conservation Service.
  - Forest Service.
- Department of the Interior—
  - Bureau of Outdoor Recreation.
  - Bureau of Reclamation.
  - Bureau of Sport Fisheries and Wildlife.
  - Bureau of Land Measurement.
  - U.S. Geological Survey.
- Department of Housing and Urban Development (urban areas).
- Department of Defense—
  - Army Corps of Engineers.

Mineral Land Reclamation

- Appalachian Regional Commission.
- Department of Agriculture—
  - Forest Service.
- Department of the Interior—
  - Bureau of Mines.
  - Bureau of Outdoor Recreation.
  - Bureau of Sport Fisheries and Wildlife.
  - Bureau of Land Management.
  - U.S. Geological Survey.
- Tennessee Valley Authority.

Parks, Forests, and Outdoor Recreation

- Department of Agriculture—
  - Forest Service.
  - Soil Conservation Service.
- Department of the Interior—
  - Bureau of Land Management.
  - National Park Service.
  - Bureau of Outdoor Recreation.
  - Bureau of Sport Fisheries and Wildlife.
- Department of Defense—
  - Army Corps of Engineers.
- Department of Housing and Urban Development (urban areas).

Soil and Plant Life, Sedimentation, Erosion and Hydrologic Conditions

- Department of Agriculture—
  - Soil Conservation Service.
  - Agricultural Research Service.
  - Forest Service.
- Department of Defense—
  - Army Corps of Engineers (dredging, aquatic plants).
- Department of Commerce—
  - National Oceanic and Atmospheric Administration.
- Department of the Interior—
  - Bureau of Land Management.
  - Bureau of Sport Fisheries and Wildlife.
  - Geological Survey.
  - Bureau of Reclamation.

NOISE

Noise Control and Abatement

- Department of Health, Education, and Welfare (Health aspects).
- Department of Commerce—
  - National Bureau of Standards.
- Department of Transportation—
  - Assistant Secretary for Systems Development and Technology.
  - Federal Aviation Administration (Office of Noise Abatement).
- Environmental Protection Agency (Office of Noise).
- Department of Housing and Urban Development (urban land use aspects, building materials standards).

PHYSIOLOGICAL HEALTH AND HUMAN WELL-BEING

Chemical Contamination of Food Products

- Department of Agriculture—
  - Consumer and Marketing Service.
- Department of Health, Education, and Welfare (Health aspects).
- Environmental Protection Agency—
  - Office of Pesticides (economic poisons).

Food Additives and Food Sanitation

- Department of Health, Education, and Welfare (Health aspects).
- Environmental Protection Agency—
  - Office of Pesticides (economic poisons, e.g., pesticide residues).
- Department of Agriculture—
  - Consumer Marketing Service (meat and poultry products).

Microbiological Contamination

- Department of Health, Education, and Welfare (Health aspects).

Radiation and Radiological Health

- Department of Commerce—
  - National Bureau of Standards.
- Atomic Energy Commission.
- Environmental Protection Agency—
  - Office of Radiation.
- Department of the Interior—
  - Bureau of Mines (uranium mines).

Sanitation and Waste Systems

- Department of Health, Education, and Welfare—(Health aspects).
- Department of Defense—
  - Army Corps of Engineers.
- Environmental Protection Agency—
  - Solid Waste Office.
  - Water Quality Office.
- Department of Transportation—
  - U.S. Coast Guard (ship sanitation).
- Department of the Interior—
  - Bureau of Mines (mineral waste and recycling, mine acid wastes, urban solid wastes).
  - Bureau of Land Management (solid wasted on public lands).
  - Office of Saline Water (demineralization of liquid wastes).

Shellfish Sanitation

- Department of Commerce—
  - National Marine Fisheries Service.
  - National Oceanic and Atmospheric Administration.
- Department of Health, Education, and Welfare (Health aspects).
- Environmental Protection Agency—
  - Office of Water Quality.

TRANSPORTATION

Air Quality

- Environmental Protection Agency—
  - Air Pollution Control Office.
- Department of Transportation—
  - Federal Aviation Administration.
- Department of the Interior—
  - Bureau of Outdoor Recreation.
  - Bureau of Sport Fisheries and Wildlife.
- Department of Commerce—
  - National Oceanic and Atmospheric Administration (meteorological conditions).

Water Quality

- Environmental Protection Agency—
  - Office of Water Quality.
- Department of the Interior—
  - Bureau of Sport Fisheries and Wildlife.
- Department of Commerce—
  - National Oceanic and Atmospheric Administration (impact on marine life and ocean monitoring).
- Department of Defense—
  - Army Corps of Engineers.
- Department of Transportation—
  - Coast Guard.

URBAN

Congestion in Urban Areas, Housing and Building Displacement

- Department of Transportation—
  - Federal Highway Administration. tion.
  - Federal Highway Administration.
- Office of Economic Opportunity.
- Department of Housing and Urban Development.
- Department of the Interior—
  - Bureau of Outdoor Recreation.

Environmental Effects With Special Impact in Low-Income Neighborhoods

- Department of the Interior—
  - National Park Service.
- Office of Economic Opportunity.
- Department of Housing and Urban Development (urban areas).
- Department of Commerce (economic development areas).
  - Economic Development Administration.
- Department of Transportation—
  - Urban Mass Transportation Administration.

Rodent Control

- Department of Health, Education, and Welfare (Health aspects).
- Department of Housing and Urban Development (urban areas).

Urban Planning

- Department of Transportation—
  - Federal Highway Administration
- Department of Housing and Urban Development.
- Environmental Protection Agency.
- Department of the Interior—
  - Geological Survey.
  - Bureau of Outdoor Recreation.
- Department of Commerce—
  - Economic Development Administration.

WATER

Water Quality and Water Pollution Control

- Department of Agriculture—
  - Soil Conservation Service.
  - Forest Service.
- Department of the Interior—
  - Bureau of Reclamation.
  - Bureau of Land Management.
  - Bureau of Sports Fisheries and Wildlife.
  - Bureau of Outdoor Recreation.
  - Geological Survey.
  - Office of Saline Water.
- Environmental Protection Agency—
  - Water Quality Office.
- Department of Health, Education, and Welfare (Health aspects).
- Department of Defense—
  - Army Corps of Engineers.
  - Department of the Navy (ship pollution control).
- Department of Transportation—
  - Coast Guard (oil spills, ship sanitation).
- Department of Commerce—
  - National Oceanic and Atmospheric Administration.

Marine Pollution

- Department of Commerce—
  - National Oceanic and Atmospheric Administration.
- Department of Transportation—
  - Coast Guard.
- Department of Defense—
  - Army Corps of Engineers.
  - Office of Oceanographer of the Navy.

River and Canal Regulation and Stream Channelization

- Department of Agriculture—
  - Soil Conservation Service.
- Department of Defense—
  - Army Corps of Engineers.

Department of the Interior—
Bureau of Reclamation.
Geological Survey.
Bureau of Sport Fisheries and Wildlife.
Department of Transportation—
Coast Guard.

WILDLIFE

Environmental Protection Agency.
Department of Agriculture—
Forest Service.
Soil Conservation Service.
Department of the Interior—
Bureau of Sport Fisheries and Wildlife.
Bureau of Land Management.
Bureau of Outdoor Recreation.

FEDERAL AGENCY OFFICES FOR RECEIVING AND COORDINATING COMMENTS UPON ENVIRONMENTAL IMPACT STATEMENTS

ADVISORY COUNCIL ON HISTORIC PRESERVATION

Robert Garvey, Executive Director, Suite 618, 801 19th Street NW., Washington, DC 20006, 343-8607.

DEPARTMENT OF AGRICULTURE

Dr. T. C. Byerly, Office of the Secretary, Washington, D.C., 20250, 388-7803.

APPALACHIAN REGIONAL COMMISSION

Orville H. Lerch, Alternate Federal Co-Chairman, 1666 Connecticut Avenue NW., Washington, DC 20235, 967-4103.

DEPARTMENT OF THE ARMY (CORPS OF ENGINEERS)

Col. J. B. Newman, Executive Director of Civil Works, Office of the Chief of Engineers, Washington, D.C. 20314, 693-7168.

ATOMIC ENERGY COMMISSION

For nonregulatory matters: Joseph J. DiNunno, Director, Office of Environmental Affairs, Washington, D.C. 20545, 973-5391.

For regulatory matters: Christopher L. Henderson, Assistant Director for Regulation, Washington, D.C. 20545, 973-7531.

DEPARTMENT OF COMMERCE

Dr. Sydney R. Galler, Deputy Assistant Secretary for Environmental Affairs, Washington, D.C. 20230, 967-4335.

DEPARTMENT OF DEFENSE

Dr. Louis M. Rousselot, Assistant Secretary for Defense (Health and Environment), Room 3E172, The Pentagon, Washington, DC 20301, 697-2111.

DELAWARE RIVER BASIN COMMISSION

W. Brinton Whitall, Secretary, Post Office Box 360, Trenton, NJ 08603, 609-883-9500.

ENVIRONMENTAL PROTECTION AGENCY

Charles Fabrikant, Director of Impact Statements Office, 1626 K Street NW., Washington, DC 20460, 632-7719.

FEDERAL POWER COMMISSION

Frederick H. Warren, Commission's Advisor on Environmental Quality, 441 G Street NW., Washington, DC 20426, 386-6084.

GENERAL SERVICES ADMINISTRATION

Rod Kreger, Deputy Administrator, General Services Administration–AD, Washington, D.C. 20405, 343-6077.
Alternate contact: Aaron Woloshin, Director, Office of Environmental Affairs, General Services Administration–ADF, 343-4161.

DEPARTMENT OF HEALTH, EDUCATION AND WELFARE

Roger O. Egeberg, Assistant Secretary for Health and Science Affairs, HEW North Building, Washington, D.C. 20202, 963-4254.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT[1]

Charles Orlebeke, Deputy Under Secretary, 451 Seventh Street SW., Washington, DC 20410, 755-6960.
Alternate contact: George Wright, Office of the Deputy Under Secretary, 755-8192.

DEPARTMENT OF THE INTERIOR

Jack O. Horton, Deputy Assistant Secretary for Programs, Washington, D.C. 20240, 343-6181.

NATIONAL CAPITAL PLANNING COMMISSION

Charles H. Conrad, Executive Director, Washington, D.C. 20576, 382-1163.

OFFICE OF ECONOMIC OPPORTUNITY

Frank Carlucci, Director, 1200 19th Street, NW., Washington, DC 20506, 254-6000.

SUSQUEHANNA RIVER BASIN COMMISSION

Alan J. Summerville, Water Resources Coordinator, Department of Environmental Resources, 105 South Office Building, Harrisburg, PA. 17120, 717-787-2315.

TENNESSEE VALLEY AUTHORITY

Dr. Francis Gartrell, Director of Environmental Research and Development, 720 Edney Building, Chattanooga, TN 37401, 615-755-2002.

DEPARTMENT OF TRANSPORTATION

Herbert F. DeSimone, Assistant Secretary for Environment and Urban Systems, Washington, D.C. 20590, 426-4563.

DEPARTMENT OF TREASURY

Richard E. Slitor, Assistant Director, Office of Tax Analysis, Washington, D.C. 20220, 964-2797.

DEPARTMENT OF STATE

Christian Herter, Jr., Special Assistant to the Secretary for Environmental Affairs, Washington, D.C. 20520, 632-7964.

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[1] Contact the Deputy Under Secretary with regard to environmental impacts of legislation, policy statements, program regulations and procedures, and precedent-making project decisions. For all other HUD consultation, contact the HUD Regional Administrator in whose jurisdiction the project lies, as follows:

James J. Barry, Regional Administrator I, Attention: Environmental Clearance Officer, Room 405, John F. Kennedy Federal Building, Boston, MA 02203, 617-223-4066.

S. William Green, Regional Administrator II, Attention: Environmental Clearance Officer, 26 Federal Plaza, New York, NY 10007, 212-264-8068.

Warren P. Phelan, Regional Administrator III, Attention: Environmental Clearance Officer, Curtis Building, Sixth and Walnut Street, Philadelphia, PA 19106, 215-597-2560.

Edward H. Baxter, Regional Administrator IV, Attention: Environmental Clearance Officer, Peachtree-Seventh Building, Atlanta, GA 30323, 404-526-5585.

George Vavoulis, Regional Administrator V, Attention: Environmental Clearance Officer, 360 North Michigan Avenue, Chicago, IL 60601, 312-353-5680.

Richard L. Morgan, Regional Administrator VI, Attention: Environmental Clearance Officer, Federal Office Building, 819 Taylor Street, Fort Worth, TX 76102, 817-334-2867.

Harry T. Morley, Jr., Regional Administrator VII, Attention: Environmental Clearance Officer, 911 Walnut Street, Kansas City, MO 64106, 816-374-2661.

Robert C. Rosenheim, Regional Administrator VIII, Attention: Environmental Clearance Officer, Samsonite Building, 1051 South Broadway, Denver, CO 80209, 303-837-4061.

Robert H. Baida, Regional Administrator IX, Attention: Environmental Clearance Officer, 450 Golden Gate Avenue, Post Office Box 36003, San Francisco, CA 94102, 415-556-4752.

Oscar P. Pederson, Regional Administrator X, Attention: Environmental Clearance Officer, Room 226, Arcade Plaza Building, Seattle, WA 98101, 206-583-5415.

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

BULLETIN NO. 72-6

September 14, 1971

TO THE HEADS OF EXECUTIVE DEPARTMENTS AND ESTABLISHMENTS

SUBJECT: Proposed Federal actions affecting the environment

1. Purpose. This Bulletin establishes procedures to be followed in certain instances by Federal agencies in taking or proposing actions coming within the scope of Section 102(2)(C) of the National Environmental Policy Act of 1969 (Public Law 91-190).

2. Background. Section 102(2)(C) of the National Environmental Policy Act requires that, in connection with recommendations or reports on proposals for legislation and other major Federal actions significantly affecting the quality of the human environment, Federal agencies shall prepare detailed statements concerning the environmental impact of such actions. Such statements are to be prepared after consultation with, and in consideration of comments made by appropriate Federal, State, and local agencies. The Council on Environmental Quality has published guidelines for implementing the statutory requirement (36 F. R., 7724-7729).

3. Requirements

a. Proposed legislation and reports on bills. Agencies are responsible, as set forth in the guidelines of the Council on Environmental Quality, for determining which of their legislative proposals or reports require preparation of a Section 102(2)(C) environmental impact statement, and for obtaining the comments of the appropriate Federal, State, or local agencies. Where a 102(2)(C) statement is determined to be required, in connection with the submission of a legislative proposal or report to the Office of Management and Budget for clearance pursuant to Circular No. A-19, the responsible agency shall make every effort to have a statement prepared in time for information copies of such statement to accompany the proposal or report; where this is not possible, the responsible agency should indicate when such a statement will be available. OMB will consult with CEQ in all cases where the responsible agency has submitted, or indicated need for, a 102(2)(C) statement. In those cases where the clearance process discloses the need for a 102(2)(C) statement and none is under preparation, the responsible agency will be requested to develop such a statement.

In connection with any modifications of the proposal or report resulting from the clearance process, the responsible agency will make any revisions in its proposed 102(2)(C) statement that may be required. Compliance with the 102(2)(C) statement does not, of course, relieve any agency or Office of Management and Budget from responsibility for giving the fullest consideration to environmental factors in developing its views on legislative proposals or reports in accordance with Circular A-19. The responsible agency should transmit its 102(2)(C) statements on legislative proposals and reports to the appropriate Congressional committees in accordance with Section 10(c) of the revised guidelines of the Council on Environmental Quality.

b. Annual budget estimates. Annual budget estimates shall be accompanied by a summary list of those specific actions covered by the estimates which, in accordance with agency procedures, require the preparation of a 102(2)(C) statement. The list shall include, in the form illustrated in Exhibit 1, the following information by appropriation or fund account:

Column A - Action, project or activity. Identify the agency actions and individual projects and activities requiring the preparation of a 102(2)(C) statement.

Column B - Funds involved. Identify the amount of funds involved in the budget year, expressed in terms of budget authority and outlays, for those items listed in Column A.

Column C - Status of statement. Indicate, in each instance, if a draft statement has been completed, whether comments from interested parties have been received, and whether final statements have been completed.

Column D - Unusual aspects. Briefly identify unresolved issues, potential controversy, and unusual nature or degree of impact upon the environment.

In the case of programs for which it is not possible to make an assessment of the potential impact on the environment, or to identify 102(2)(C) statements that will be required, agencies may include a narrative statement containing information about general environmental impact and as to when decisions are expected on the need for 102(2)(C) statements.

In addition to submitting the summary list prescribed above, to facilitate consideration by the Office of Management and Budget of environmental aspects of budget items, each agency shall, at the earliest time possible, notify the appropriate budget examiner of the Office of Management and Budget of any action expected to be included in the agency's budget estimate which will have impact upon the environment of particularly significant and/or potentially controversial nature.

Individual draft or final statements and information to update the listings required above shall be provided by the agencies to members of the staff of the Office of Management and Budget upon their request.

c. Water resource project reports. Project reports reviewed by the Office of Management and Budget pursuant to Executive Orders 9384 and 10654 often involve proposed actions that may require application of Section 102(2)(C) procedures. In such cases, either a draft or final statement, as available, shall accompany the project report when it is referred for comments to interested Federal, State, and local agencies. The final statement and associated comments shall accompany the project report when submitted to the Office of Management and Budget for review.

4. Review of Federal actions by State and local governments. Section 102(2) (C) requires agencies to include the comments and views of the appropriate Federal, State, and local agencies which are authorized to develop and enforce environmental standards. The Council on Environmental Quality Guidelines and the Office of Management and Budget Circular No. A-95 establish the procedures to be followed in obtaining Federal, State, and local review of proposed actions subject to Section 102(2) (C).

5. Exceptions to these procedures. Should instances arise in which an agency believes compelling reasons exist for departure from these procedures, the matter should be raised with appropriate staff members of the Office of Management and Budget.

6. Rescission of previous Bulletin. Office of Management and Budget Bulletin No. 71-3, dated August 31, 1970, is rescinded, effective this date.

GEORGE P. SHULTZ
Director

EXHIBIT 1
Bulletin No. 72-6

SUMMARY LIST OF SECTION 102(2)(C) STATEMENTS

DEPARTMENT OF GOVERNMENT
Appropriation or Fund Account
(Account identification code)

Column A	Column B		Column C	Column D
	Funds Involved			
Action, Project, or Activity	Budget Authority	Outlays	Status of Statement	Unusual Aspects

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

February 9, 1971

CIRCULAR NO. A-95
Revised

TO THE HEADS OF EXECUTIVE DEPARTMENTS AND ESTABLISHMENTS

SUBJECT: Evaluation, review, and coordination of Federal and federally assisted programs and projects

1. Purpose. This Circular furnishes guidance to Federal agencies for added cooperation with State and local governments in the evaluation, review, and coordination of Federal assistance programs and projects. The Circular promulgates regulations (Attachment A) which provide, in part, for:

a. Encouraging the establishment of a project notification and review system to facilitate coordinated planning on an intergovernmental basis for certain Federal assistance programs in furtherance of section 204 of the Demonstration Cities and Metropolitan Development Act of 1966 and Title IV of the Intergovernmental Cooperation Act of 1968 (Attachment B).

b. Coordination of direct Federal development programs and projects with State, regional, and local planning and programs pursuant to Title IV of the Intergovernmental Cooperation Act of 1968.

c. Securing the comments and views of State and local agencies which are authorized to develop and enforce environmental standards on certain Federal or federally assisted projects affecting the environment pursuant to section 102(2) (C) of the National Environmental Policy Act of 1969 (Attachment C) and regulations of the Council on Environmental Quality.

This Circular supersedes Circular No. A-95, dated July 24, 1969, as amended by Transmittal Memorandum No. 1, dated December 27, 1969. It will become effective April 1, 1971.

2. Basis. This Circular has been prepared pursuant to:

a. Section 401(a) of the Intergovernmental Cooperation Act of 1968 which provides, in part, that

> "The President shall . . . establish rules and regulations governing the formulation, evaluation, and review of Federal programs and projects having a significant impact on area and community development . . . "

and the President's Memorandum of November 8, 1968, to the Director of the Bureau of the Budget ("Federal Register," Vol. 33, No. 221, November 13, 1968) which provides:

> "By virtue of the authority vested in me by section 301 of title 3 of the United States Code and section 401(a) of the Intergovernmental Cooperation Act of 1968 (Public Law 90-577), I hereby delegate to you the authority vested in the President to establish the rules and regulations provided for in that section governing the formulation, evaluation, and review of Federal programs and projects having a significant impact on area and community development, including programs providing Federal assistance to the States and localities, to the end that they shall most effectively serve these basic objectives.
>
> "In addition, I expect the Bureau of the Budget to generally coordinate the actions of the departments and agencies in exercising the new authorizations provided by the Intergovernmental Cooperation Act, with the objective of consistent and uniform action by the Federal Government."

b. Title IV, section 403, of the Intergovernmental Cooperation Act of 1968 which provides that:

> "The Bureau of the Budget, or such other agency as may be designated by the President, shall prescribe such rules and regulations as are deemed appropriate for the effective administration of this Title."

c. Section 204 (c) of the Demonstration Cities and Metropolitan Development Act of 1966 which provides that:

> "The Bureau of the Budget, or such other agency as may be designated by the President, shall prescribe such rules and regulations as are deemed appropriate for the effective administration of this section," and

d. Reorganization Plan No. 2 of 1970 and Executive Order No. 11541 of July 1, 1970, which vest all functions of the Bureau of the Budget or the Director of the Bureau of the Budget in the Director of the Office of Management and Budget.

3. Coverage. The regulations promulgated by this Circular (Attachment A) will have applicability to:

a. Under Part I, all projects (or significant changes thereto) for which Federal assistance is being sought under the programs listed in Attachment D. Limitations and provision for exceptions are noted therein.

b. Under Part II, all direct Federal development activities, including the acquisition, use, and disposal of Federal real property.

c. Under Part III, all Federal programs requiring, by statute or administrative regulation, a State plan as a condition of assistance.

d. Under Part IV, all Federal programs providing assistance to State, local, and regional projects and activities that are planned on a multijurisdictional basis.

4. Inquiries. Inquiries concerning this Circular may be addressed to the Office of Management and Budget, Washington, D. C. 20503, telephone (202) 395-3031 (Government dial code 103-3031).

GEORGE P. SHULTZ
Director

Attachments

ATTACHMENT A
Circular No. A-95
Revised

REGULATIONS UNDER SECTION 204 OF THE DEMONSTRATION CITIES AND METROPOLITAN DEVELOPMENT ACT OF 1966, TITLE IV OF THE INTERGOVERNMENTAL COOPERATION ACT OF 1968, AND SECTION 102 (2)(C) OF THE NATIONAL ENVIRONMENTAL POLICY ACT OF 1969

PART I: PROJECT NOTIFICATION AND REVIEW SYSTEM

1. Purpose. The purpose of this Part is to:

a. Further the policies and directives of Title IV of the Intergovernmental Cooperation Act of 1968 by encouraging the establishment of a network of State, regional, and metropolitan planning and development clearinghouses which will aid in the coordination of Federal or federally assisted projects and programs with State, regional, and local planning for orderly growth and development;

b. Implement the requirements of section 204 of the Demonstration Cities and Metropolitan Development Act of 1966 for metropolitan areas within that network;

c. Implement, in part, requirements of section 102(2)(C) of the National Enviromental Policy Act of 1969, which require State and local views of the environmental impact of Federal or federally assisted projects;

d. Encourage, by means of early contact between applicants for Federal assistance and State and local governments and agencies, an expeditious process of intergovernmental coordination and review of proposed projects.

2. Notification.

a. Any agency of State or local government or any organization or individual undertaking to apply for assistance to a project under a Federal program listed in Attachment D will be required to notify the planning and development clearinghouse of the State (or States) and the region, if there is one, or of the metropolitan area in which the project is to be located, of its intent to apply for assistance. Notification will be accompanied by a summary description of the project for which assistance will be sought. The summary description will contain the following information:

(1) Identity of the applicant agency, organization, or individual.

(2) The geographic location of the project to be assisted.

(3) A brief description of the proposed project by type, purpose, general size or scale, estimated cost, beneficiaries, or other characteristics which will enable the clearinghouses to identify agencies of State or local government having plans, programs, or projects that might be affected by the proposed projects.

(4) A brief statement of whether or not an environmental impact statement is required and, if so, an indication of the nature and extent of environmental impact anticipated.

(5) The Federal program and agency under which assistance will be sought as indicated in the Catalog of Federal Domestic Assistance (April 1970 and subsequent editions).

(6) The estimated date by which time the applicant expects to formally file an application.

Many clearinghouses have developed notification forms and instructions. Applicants are urged to contact their clearinghouses for such information in order to expedite clearinghouse review.

b. In order to assure maximum time for effective coordination and so as not to delay the timely submission of the completed application to the Federal agency, such notifications should be sent at the earliest feasible time.

3. Clearinghouse functions. Clearinghouse functions include:

a. Evaluating the significance of proposed Federal or federally assisted projects to State, areawide or local plans and programs, as appropriate.

b. Receiving and disseminating project notifications to appropriate State agencies in the case of the State clearinghouse and to appropriate local governments and agencies in the case of regional or metropolitan clearinghouses; and providing liaison, as may be necessary, between such agencies or bodies and the applicant.

c. Assuring, pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, that appropriate State, metropolitan, regional, or local agencies which are authorized to develop and enforce environmental standards are informed of and are given opportunity to review and comment on the environmental significance of proposed projects for which Federal assistance is sought.

d. Providing, pursuant to Part II of these regulations, liaison between Federal agencies contemplating direct Federal development projects and the State or areawide agencies or local governments having plans or programs that might be affected by the proposed project.

4. Consultation and review

a. State, metropolitan, and regional clearinghouses may have a period of 30 days after receipt of a project notification in which to inform State agencies, other local or regional bodies, etc., that may be affected by the project (including agencies authorized to develop and enforce environmental standards) and to arrange, as may be necessary, to consult with the applicant on the proposed project.

b. During this period and during the period in which the application is being completed, the clearinghouse may work with the applicant in the resolution of any problems raised by the proposed project.

c. Clearinghouses may have, if necessary, an additional 30 days to review the completed application and to transmit to the applicant any comments or recommendations the clearinghouse (or others) may have.

d. In the case of a project for which Federal assistance is sought by a special purpose unit of government, clearinghouses will assure that any unit of general local government, having jurisdiction over the area in which the project is to be located, has opportunity to confer, consult, and comment upon the project and the application.

e. Applicants will include with the completed application as submitted to the Federal agency:

(1) Any comments and recommendations made by or through clearinghouses, along with a statement that such comments have been considered prior to submission of the application; or

(2) A statement that the procedures outlined in this section have been followed and that no comments or recommendations have been received.

f. Where regional or metropolitan areas are contiguous, coordinative arrangements should be established between the clearinghouses in such areas to assure that projects in one area which may have an impact on the development of a contiguous area are jointly studied. Any comments and recommendations made by or through a clearinghouse in one area on a project in a contiguous area will accompany the application for assistance to that project.

5. Subject matter of comments and recommendations. Comments and recommendations made by or through clearinghouses with respect to any project are for the purpose of assuring maximum consistency of such project with State, regional and local comprehensive plans. They are also intended to assist the Federal agency (or State agency, in the case of projects for which the State under certain Federal grants has final project approval) administering such a program in determining whether the project is in accord with applicable Federal law. Comments or recommendations, as may be appropriate, may include information about:

a. The extent to which the project is consistent with or contributes to the fulfillment of comprehensive planning for the State, region, metropolitan area, or locality.

b. The extent to which the project contributes to the achievement of State, regional, metropolitan, and local objectives as specified in section 401(a) of the Intergovernmental Cooperation Act of 1968, as follows:

(1) Appropriate land uses for housing, commercial, industrial, governmental, institutional, and other purposes;

(2) Wise development and conservation of natural resources, including land, water, minerals, wildlife, and others;

(3) Balanced transportation systems, including highway, air, water, pedestrian, mass transit, and other modes for the movement of people and goods;

(4) Adequate outdoor recreation and open space;

(5) Protection of areas of unique natural beauty, historical and scientific interest;

(6) Properly planned community facilities, including utilities for the supply of power, water, and communications, for the safe disposal of wastes, and for other purposes; and

(7) Concern for high standards of design.

c. As provided under section 102(2)(C) of the National Environmental Policy Act of 1969, the extent to which the project significantly affects the environment including consideration of:

(1) The environmental impact of the proposed project;

(2) Any adverse environmental effects which cannot be avoided should the proposed project be implemented;

(3) Alternatives to the proposed project;

(4) The relationship between local short term uses of man's environment and the maintenance and enhancement of long term productivity; and

(5) Any irreversible and irretrievable commitments of resources which would be involved in the proposed project or action, should it be implemented.

d. In the case of a project for which assistance is being sought by a special purpose unit of government, whether the unit of general local government having jurisdiction over the area in which the project is to be located has applied, or plans to apply for assistance for the same or similar type project. This information is necessary to enable the Federal (or State) agency to make the judgments required under section 402 of the Intergovernmental Cooperation Act of 1968.

6. Federal agency procedures. Federal agencies having programs covered under this Part (see Attachment D) will develop appropriate procedures for:

a. Informing potential applicants for assistance under such programs of the requirements of this Part (1) in program information materials, (2) in response to inquiries respecting application procedures, (3) in pre-application conferences, or (4) by other means which will assure earliest contact between applicant and clearinghouses.

b. Assuring that all applications for assistance under programs covered by this part have been submitted to appropriate clearinghouses for review.

c. Notifying clearinghouses within seven days of any action (approvals, disapprovals, return for amendment, etc.) taken on applications that have been reviewed by such clearinghouses. Where a State clearinghouse has assigned an identification number to an application, the Federal agency will refer to such identification number in notifying clearinghouses of actions taken on the application.

d. Assuring, in the case of an application submitted by a special purpose unit of government, where accompanying comments indicate that the unit of general local government having jurisdiction over the area in which the project is to be located has submitted or plans to submit an application for assistance for the same or a similar type project, that appropriate considerations and preferences as specified in section 402 of the Intergovernmental Cooperation Act of 1968, are accorded the unit of general local government. Where such preference cannot be so accorded, the agency shall supply, in writing, to the unit of general local government and the Office of Management and Budget its reasons therefor.

7. HUD housing programs. Because of the unique nature of the application and development process for the housing programs of the Department of Housing and Urban Development, a variation of the review procedure is necessary. For HUD programs in the 14.100 series listed in Attachment D, the following procedure for review will be followed:

a. The HUD Area or Insuring Office will transmit to the appropriate State clearinghouse and metropolitan or regional clearinghouse a copy of the initial application for HUD program approval.

b. The clearinghouses will have 15 days to review the applications and to forward to the Area or Insuring Office any comments which they may have, including observations concerning the consistency of the proposed project with State and areawide development plans and identification of major environmental concerns. Processing of applications in the Area or Insuring Office will proceed concurrently with the clearinghouse review.

c. This procedure will include only applications involving new construction and will apply to:

(1) Subdivisions having 50 or more lots involving any HUD home mortgage insurance program.

(2) Multifamily projects having 100 or more dwelling units under any HUD mortgage insurance program, or under conventional or turnkey public housing programs.

(3) Mobile home courts with 100 or more spaces.

(4) College housing provided under the debt service or direct loan programs for 200 or more students.

All other applications for assistance under the HUD programs in the 14.100 series listed in Attachment D are exempt from the requirements of this Circular.

8. Reports and directories.

a. The Director of the Office of Management and Budget may require reports, from time to time, on the implementation of this Part.

b. The Office of Management and Budget will maintain and distribute to appropriate Federal agencies a directory of State, regional, and metropolitan clearinghouses.

c. The Office of Management and Budget will notify clearinghouses and Federal agencies of any excepted categories of projects under programs listed in Attachment D.

PART II: DIRECT FEDERAL DEVELOPMENT

1. Purpose. The purpose of this Part is to:

a. Provide State and local government with information on projected Federal development so as to facilitate coordination with State, regional and local plans and programs.

b. Provide Federal agencies with information on the relationship of proposed direct Federal development projects and activities to State, regional, and local plans and programs; and to assure maximum feasible consistency of Federal developments with State, regional, and local plans and programs.

c. Provide Federal agencies with information on the possible impact on the environment of proposed Federal development.

2. Coordination of direct Federal development projects with State, regional, and local development.

a. Federal agencies having responsibility for the planning and construction of Federal buildings and installations or other Federal public works or development or for the acquisition, use, and disposal of Federal land and real property will establish procedures for:

(1) Consulting with Governors, regional and metropolitan clearinghouses, and local elected officials at the earliest practicable stage in project or development planning on the relationship of any plan or project to the development plans and programs of the State, region, or localities in which the project is to be located.

(2) Assuring that any such Federal plan or project is consistent or compatible with State, regional, and local development plans and programs identified in the course of such consultations. Exceptions will be made only where there is clear justification.

(3) Providing State, metropolitan, regional, and local agencies which are authorized to develop and enforce environmental standards with adequate opportunity to review such Federal plans and projects pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969. Any comments of such agencies will accompany the environmental impact statement submitted by the Federal agency.

3. Use of clearinghouses. The State, regional, and metropolitan planning and development clearinghouses established pursuant to Part I will be utilized to the greatest extent practicable to effectuate the requirements of this Part. Agencies are urged to establish early contact with clearinghouses to work out arrangements for carrying out the consultation and review required under this Part, including identification of types of projects considered appropriate for consultation and review.

PART III: STATE PLANS

1. Purpose. The purpose of this Part is to provide Federal agencies with information about the relationship of State plans required under various Federal programs to State comprehensive planning and to other State plans.

2. Review of State plans. To the extent not presently required by statute or administrative regulation, Federal agencies administering programs requiring by statute or regulation a State plan as a condition of assistance under such programs will require that the Governor be given the opportunity to comment on the relationship of such State plan to comprehensive and other State plans and programs. Governors will be afforded a period of forty-five days in which to make such comments, and any such comments will be transmitted with the plan.

3. State plan. A State plan under this Part is defined to include any required supporting reports or documentation that indicate the programs, projects, and activities for which Federal funds will be utilized.

PART IV: COORDINATION OF PLANNING IN MULTIJURISDICTIONAL AREAS

1. Policies and objectives. The purposes of this Part are:

a. To encourage and facilitate State and local initiative and responsibility in developing organizational and procedural arrangements for coordinating comprehensive and functional planning activities.

b. To eliminate overlap, duplication, and competition in State and local planning activities assisted or required under Federal programs and to encourage the most effective use of State and local resources available for development planning.

c. To minimize inconsistency among Federal administrative and approval requirements placed on State, regional, and metropolitan development planning activities.

d. To encourage the States to exercise leadership in delineating and establishing a system of planning and development districts or regions in each State, which can provide a consistent geographic base for the coordination of Federal, State and local development programs.

2. Common or consistent planning and development districts or regions. Prior to the designation or redesignation (or approval thereof) of any planning and development district or region under any Federal program, Federal agency procedures will provide a period of thirty days for the Governor(s) of the State(s) in which the district or region will be located to review the boundaries thereof and comment upon its relationship to planning and development districts or regions established by the State. Where the State has established such planning and development districts, the boundaries of designated areas will conform to them unless there is clear justification for not doing so. Where the State has not established planning and development districts or regions which provide a basis for evaluation of the boundaries of the area proposed for designation,

major units of general local government and Federal agencies administering related programs in such area will also be consulted prior to designation of the area to assure consistency with districts established under interlocal agreement and under related Federal programs.

3. Common and consistent planning bases and coordination of related activities in multijurisdictional areas. Each agency will develop checkpoint procedures and requirements for applications for planning and development assistance under appropriate programs to assure the fullest consistency and coordination with related planning and development being carried on under other Federal programs or under State and local programs in any multijurisdictional areas.

The checkpoint procedures will incorporate provisions covering the following points:

a. Identification by the applicant of planning activities being carried on for related programs within the multijurisdictional area, including those covering a larger area within which such multijurisdictional area is located, subareas of the area, and areas overlapping the multijurisdictional area. Metropolitan or regional clearinghouses established under Part I of this Circular, may assist in providing such identification.

b. Evidence of explicit organizational or procedural arrangements that have been or are being established by the applicant to assure maximum coordination of planning for such related functions, programs, projects and activities within the multijurisdictional area. Such arrangements might include joint or common boards of directors or planning staffs, umbrella organizations, common referral or review procedures, information exchanges, etc.

c. Evidence of cooperative arrangements that have been or are being made by the applicant respecting joint or common use of planning resources (funds, personnel, facilities, and services, etc.) among related programs within the area; and

d. Evidence that planning being assisted will proceed from base data, statistics, and projections (social, economic, demographic, etc.) and assumptions that are common to or consistent with those being employed for planning related activities within the area.

4. Joint funding. Where it will enhance the quality, comprehensive scope, and coordination of planning in multijurisdictional areas, Federal agencies will, to the extent practicable provide for joint funding of planning activities being carried on therein.

5. Coordination of agency procedures and requirements. With respect to the steps called for in paragraphs 2 and 3 of this Part, departments and agencies will develop for relevant programs appropriate draft procedures and requirements. Copies of such drafts will be furnished to the Director of the Office of Management and Budget and to the heads of departments and agencies administering related programs. The Office, in consultation with the agencies, will review the draft procedures to assure the maximum obtainable consistency among them.

PART V: DEFINITIONS

Terms used in this Circular will have the following meanings:

1. Federal agency -- any department, agency, or instrumentality in the executive branch of the Government and any wholly owned Government corporation.

2. State -- any of the several States of the United States, the District of Columbia, Puerto Rico, any territory or possession of the United States, or any agency or instrumentality of a State, but does not include the governments of the political subdivisions of the State.

3. Unit of general local government -- any city, county, town, parish, village, or other general purpose political subdivision of a State.

4. Special purpose unit of local government -- any special district, public purpose corporation, or other strictly limited purpose political subdivision of a State, but shall not include a school district.

5. Federal assistance, Federal financial assistance, Federal assistance programs, or federally assisted program -- programs that provide assistance through grant or contractual arrangements. They include technical assistance programs, or programs providing assistance in the form of loans, loan guarantees, or insurance. The term does not include any annual payment by the United States to the District of Columbia authorized by article VI of the District of Columbia Revenue Act of 1947 (D.C. Code sec. 47-2501a and 47-2501b).

6. Comprehensive planning, to the extent directly related to area needs or needs of a unit of general local government, includes the following:

   a. Preparation, as a guide for governmental policies and action, of general plans with respect to:

      (1) Pattern and intensity of land use,

(2) Provision of public facilities (including transportation facilities) and other government services.

(3) Effective development and utilization of human and natural resources.

b. Preparation of long range physical and fiscal plans for such action.

c. Programming of capital improvements and other major expenditures, based on a determination of relative urgency, together with definitive financing plans for such expenditures in the earlier years of the program.

d. Coordination of all related plans and activities of the State and local governments and agencies concerned.

e. Preparation of regulatory and administrative measures in support of the foregoing.

7. Metropolitan area -- a standard metropolitan statistical area as established by the Office of Management and Budget, subject, however, to such modifications and extensions as the Office of Management and Budget may determine to be appropriate for the purposes of section 204 of the Demonstration Cities and Metropolitan Development Act of 1966, and these Regulations.

8. Areawide agency -- an official State or metropolitan or regional agency empowered under State or local laws or under an interstate compact or agreement to perform comprehensive planning in an area; an organization of the type referred to in section 701(g) of the Housing Act of 1954; or such other agency or instrumentality as may be designated by the Governor (or, in the case of metropolitan areas crossing State lines, any one or more of such agencies or instrumentalities as may be designated by the Governors of the States involved) to perform such planning.

9. Planning and development clearinghouse or clearinghouse includes:

a. An agency of the State Government designated by the Governor or by State law.

b. A nonmetropolitan regional comprehensive planning agency (herein referred to as "regional clearinghouse") designated by the Governor (or Governors in the case of regions extending into more than one State) or by State law.

c. A metropolitan areawide agency that has been recognized by the Office of Management and Budget as an appropriate agency to perform review functions under section 204 of the Demonstration Cities and Metropolitan Development Act of 1966.

10. Multijurisdictional area -- any geographical area comprising, encompassing, or extending into more than one unit of general local government.

11. Planning and development district or region -- a multijurisdictional area that has been formally designated or recognized as an appropriate area for planning under State law or Federal program requirements.

12. Direct Federal development -- planning and construction of public works, physical facilities, and installations or land and real property development (including the acquisition, use, and disposal of real property) undertaken by or for the use of the Federal Government or any of its agencies.

SECTION 204 OF THE DEMONSTRATION CITIES AND METROPOLITAN DEVELOPMENT ACT OF 1966, as amended (80 Stat. 1263, 82 Stat. 208)

"Sec. 204. (a) All applications made after June 30, 1967 for Federal loans or grants to assist in carrying out open-space land projects or for planning or construction of hospitals, airports, libraries, water supply and distribution facilities, sewerage facilities and waste treatment works, highways, transportation facilities, law enforcement facilities, and water development and land conservation projects within any metropolitan area shall be submitted for review--

"(1) to any areawide agency which is designated to perform metropolitan or regional planning for the area within which the assistance is to be used, and which is, to the greatest practicable extent, composed of or responsible to the elected officials of a unit of areawide government or of the units of general local government within whose jurisdiction such agency is authorized to engage in such planning, and

"(2) if made by a special purpose unit of local government, to the unit or units of general local government with authority to operate in the area within which the project is to be located.

"(b)(1) Except as provided in paragraph (2) of this subsection, each application shall be accompanied (A) by the comments and recommendations with respect to the project involved by the areawide agency and governing bodies of the units of general local government to which the application has been submitted for review, and (B) by a statement by the applicant that such comments and recommendations have been considered prior to formal submission of the application. Such comments shall include information concerning the extent to which the project is consistent with comprehensive planning developed or in the process of development for the metropolitan area or the unit of general local government, as the case may be, and the extent to which such project contributes to the fulfillment of such planning. The comments and recommendations and the statement referred to in this paragraph shall, except in the case referred to in paragraph (2) of this subsection, be reviewed by the agency of the Federal Government to which such application is submitted for the sole purpose of assisting it in determining whether the application is in accordance with the provisions of Federal law which govern the making of the loans or grants.

"(2) An application for a Federal loan or grant need not be accompanied by the comments and recommendations and the statements referred to in paragraph (1) of this subsection, if the applicant certifies that a plan or description of the project, meeting the requirements of such rules and regulations as may be prescribed under subsection (c), or such application, has lain before an appropriate areawide agency or instrumentality or unit of general local government for a period of sixty days without comments or recommendations thereon being made by such agency or instrumentality.

"(3) The requirements of paragraphs (1) and (2) shall also apply to any amendment of the application which, in light of the purposes of this title, involves a major change in the project covered by the application prior to such amendment.

"(c) The Bureau of the Budget, or such other agency as may be designated by the President, is hereby authorized to prescribe such rules and regulations as are deemed appropriate for the effective administration of this section."

TITLE IV OF THE INTERGOVERNMENTAL COOPERATION ACT OF 1968 (82 Stat. 1103)

"TITLE IV -- COORDINATED INTERGOVERNMENTAL POLICY AND ADMINISTRATION OF DEVELOPMENT ASSISTANCE PROGRAMS"

"DECLARATION OF DEVELOPMENT ASSISTANCE POLICY"

"Sec. 401. (a) The economic and social development of the Nation and the achievement of satisfactory levels of living depend upon the sound and orderly development of all areas, both urban and rural. Moreover, in a time of rapid urbanization, the sound and orderly development of urban communities depends to a large degree upon the social and economic health and the sound development of smaller communities and rural areas. The President shall, therefore, establish rules and regulations governing the formulation, evaluation, and review of Federal programs and projects having a significant impact on area and community development, including programs providing Federal assistance to the States and localities, to the end that they shall most effectively serve these basic objectives. Such rules and regulations shall provide for full consideration of the concurrent achievement of the following specific objectives and, to the extent authorized by law, reasoned choices shall be made between such objectives when they conflict:

"(1) Appropriate land uses for housing, commercial, industrial, governmental, institutional, and other purposes;

"(2) Wise development and conservation of natural resources, including land, water, minerals, wildlife, and others;

"(3) Balanced transportation systems, including highway, air, water, pedestrian, mass transit, and other modes for the movement of people and goods;

"(4) Adequate outdoor recreation and open space;

"(5) Protection of areas of unique natural beauty, historical and scientific interest;

"(6) Properly planned community facilities, including utilities for the supply of power, water, and communications, for the safe disposal of wastes, and for other purposes; and

"(7) Concern for high standards of design.

"(b) All viewpoints -- national, regional, State and local -- shall, to the extent possible, be fully considered and taken into account in planning Federal or federally assisted development programs and projects. State and local government objectives, together with the objectives of regional organizations shall be considered and evaluated within a framework of national public objectives, as expressed in Federal law, and available projections of future national conditions and needs of regions, States, and localities shall be considered in plan formulation, evaluation, and review.

"(c) To the maximum extent possible, consistent with national objectives, all Federal aid for development purposes shall be consistent with and further the objectives of State, regional, and local comprehensive planning. Consideration shall be given to all developmental aspects of our total national community, including but not limited to housing, transportation, economic development, natural and human resources development, community facilities, and the general improvement of living environments.

"(d) Each Federal department and agency administering a development assistance program shall, to the maximum extent practicable, consult with and seek advice from all other significantly affected Federal departments and agencies in an effort to assure fully coordinated programs.

"(e) Insofar as possible, systematic planning required by individual Federal programs (such as highway construction, urban renewal, and open space) shall be coordinated with and, to the extent authorized by law, made part of comprehensive local and areawide development planning."

"FAVORING UNITS OF GENERAL LOCAL GOVERNMENT"

"Sec. 402. Where Federal law provides that both special-purpose units of local government and units of general local government are eligible to receive loans or grants-in-aid, heads of Federal departments and agencies shall, in the absence of substantial reasons to the contrary, make such loans or grants-in-aid to units of general local government rather than to special-purpose units of local government."

"RULES AND REGULATIONS"

"Sec. 403. The Bureau of the Budget, or such other agency as may be designated by the President, is hereby authorized to prescribe such rules and regulations as are deemed appropriate for the effective administration of this title."

SECTION 102 (2) (C) OF THE NATIONAL ENVIRONMENTAL POLICY ACT OF 1969 (83 Stat. 853)

"Sec. 102. The Congress authorizes and directs that, to the fullest extent possible; (1) the policies, regulations, and public laws of the United States shall be interpreted and administered in accordance with the policies set forth in this Act, and (2) all agencies of the Federal Government shall--....

"(C) include in every recommendation or report on proposals for legislation and other major Federal actions significantly affecting the quality of the human environment, a detailed statement by the responsible official on--

"(i) the environmental impact of the proposed action,

"(ii) any adverse environmental effects which cannot be avoided should the proposal be implemented,

"(iii) alternatives to the proposed action,

"(iv) the relationship between local short-term use of man's environment and the maintenance and enhancement of long-term productivity, and

"(v) any irreversible or irretrievable commitments of resources which would be involved in the proposed action should it be implemented.

"Prior to making any detailed statement, the responsible Federal official shall consult with and obtain the comments of any Federal agency which has jurisdiction by law or special expertise with respect to any environmental impact involved. Copies of such statement and the comments and views of the appropriate Federal, State, and local agencies, which are authorized to develop and enforce environmental standards, shall be made available to the President, the Council on Environmental Quality and to the public as provided by section 552 of Title 5, United States Code, and shall accompany the proposal through the existing agency review processes;...."

ATTACHMENT D
Circular No.A-95
Revised

COVERAGE OF PROGRAMS UNDER ATTACHMENT A, PART I

1. Programs are listed below pursuant to section 204 of the Demonstration Cities and Metropolitan Development Act of 1966 and the Intergovernmental Cooperation Act of 1968. They are referenced by Catalog of Federal Domestic Assistance identification numbers.

2. Heads of Federal departments and agencies may, with the concurrence of the Office of Management and Budget, exclude certain categories of projects or activities under listed programs from the requirements of Attachment A, Part I. OMB concurrence will be based on the following criteria:

a. Lack of geographic identifiability with respect to location or impact (e.g., certain types of technical studies);

b. Small scale or size;

c. Essentially local impact (within the applicant jurisdiction); and

d. Other characteristics that make review impractical. OMB will notify clearinghouses of such exclusions.

3. Covered programs

Department of Agriculture

Farmers Home Administration

10.400	Comprehensive Areawide Water and Sewer Planning Grants
10.409	Irrigation, Drainage and Other Soil and Conservation Loans
10.412	Recreation Association Loans
10.414	Resource Conservation and Development Loans

10.418	Water and Waste Disposal Systems for Rural Communities
10.419	Watershed Protection and Flood Prevention Loans

Soil Conservation Service

10.901	Resource Conservation & Development
10.904	Watershed Protection & Flood Prevention

Department of Commerce

Economic Development Administration

11.300	Economic Development -- Grants and Loans for Public Works and Development Facilities
11.302	Economic Development -- Planning Assistance
11.303	Economic Development -- Technical Assistance

Department of Defense

Department of the Army, Office of the Chief of Engineers

12.101	Beach Erosion Control
12.106	Small Flood Control Projects
12.107	Small Navigation Projects
12.108	Snagging and Clearing for Flood Control

Department of Health, Education, and Welfare

Environmental Health Service

13.001	Air Pollution Control Program Grants (Planning Only) 1/

1/These programs are administered by the new Environmental Protection Agency for which there is as yet no separate Catalog listing.

13.014	Solid Wastes Demonstration Grants [1]
13.015	Solid Wastes Planning Grants [1]

Health Services and Mental Health Administration

13.206	Comprehensive Health Planning -- Areawide Grants
13.219	Health Facilities Construction -- Diagnostic and Treatment Centers
13.220	Health Facilities Construction -- Hospitals and Public Health Centers
13.221	Health Facilities Construction -- Long-Term Care Facilities
13.222	Health Facilities Construction -- Rehabilitation Facilities
13.235	Mental Health -- Community Assistance Grants for Narcotic Addiction (Construction Only)
13.236	Mental Health -- Construction of Community Mental Health Centers
13.249	Regional Medical Programs -- Operational and Planning Grants (Planning and Construction Only)

National Institutes of Health

13.340	Health Professions Facilities Construction
13.350	Medical Library Assistance -- Regional Medical Libraries
13.369	Schools of Nursing -- Facilities Construction

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[1] These programs are administered by the new Environmental Protection Agency for which there is as yet no separate Catalog listing.

Office of Education

13.408	Construction of Public Libraries
13.456	Higher Education Academic Facilities -- State Comprehensive Planning
13.457	Higher Education Academic Facilities Construction -- Interest Subsidization
13.458	Higher Education Academic Facilities Construction -- Public and Private Colleges and Universities
13.459	Higher Education Academic Facilities Construction -- Public Community Colleges and Technical Institutes
13.4[illegible]7	School Assistance in Federally Affected Areas -- Construction
13.487	Supplementary Education Centers and Services (Construction Only)
13.493	Vocational Education -- Basic Grants to States (Construction Only)

Social and Rehabilitation Service

13.711	Juvenile Delinquency Planning, Prevention, and Rehabilitation (Planning and Construction Only)
13.716	Mental Retardation Community Facilities Construction
13.746	Vocational Rehabilitation Services -- Basic Support (Construction Only)

Department of Housing and Urban Development

Housing Production and Mortgage Credit/FHA

(Note: The following programs are subject to the limitations and procedures set forth in paragraph 7, Part I, of the Circular.)

14.100	College Housing Debt Service
14.101	College Housing Direct Loans
14.103	Interest Reduction Payments - Rental and Cooperative Housing for Lower Income Families (236)
14.105	Interest Subsidy - Homes for Lower Income Families (235(i))
14.112	Mortgage Insurance - Construction or Rehabilitation of Condominium Projects (234(d))
14.115	Mortgage Insurance - Development of Sales Type Cooperative Projects (213)
14.117	Mortgage Insurance - Homes (203(b))
14.118	Mortgage Insurance - Homes for Certified Veterans (203(b))
14.119	Mortgage Insurance - Homes for Disaster Victims (203(h))
14.120	Mortgage Insurance - Homes for Low and Moderate Income Families (221(d)(2))
14.121	Mortgage Insurance - Homes in Outlying Areas (203(i))
14.122	Mortgage Insurance - Homes in Urban Renewal Areas (220 homes)
14.124	Mortgage Insurance - Investor Sponsored Cooperative Housing (213)

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14.125	Mortgage Insurance - Land Development and New Communities (Title X)
14.126	Mortgage Insurance - Management Type Cooperative Projects (213)
14.127	Mortgage Insurance - Mobile Home Courts (207)
14.134	Mortgage Insurance - Rental Housing (207)
14.135	Mortgage Insurance - Rental Housing for Low and Moderate Income Families (221(d)(4)
14.136	Mortgage Insurance - Rental Housing for Low and Moderate Income Families - Below Market Interest Rate (221(d)(3))
14.137	Mortgage Insurance - Rental Housing for Low and Moderate Income Families, Market Interest Rate (221(d)(3))
14.138	Mortgage Insurance - Rental Housing for the Elderly (231)
14.139	Mortgage Insurance - Rental Housing in Urban Renewal Areas (220)
14.146	Public Housing - Acquisition, Construction, Rehabilitation (New Construction Only)
14.149	Rent Supplements - Rental Housing for Low Income Families

Metropolitan Planning and Development

14.200	Basic Water and Sewer Facilities -- Grants
14.203	Comprehensive Planning Assistance
14.204	Historic Preservation Grants
14.207	New Communities -- Loan Guarantees

14.208	New Communities -- Supplementary Grants
14.209	Open Space Land Acquisition and Development Grants
14.210	Public Facility Loans
14.214	Urban Systems Engineering Demonstration Grants

Model Cities Administration

14.300	Model Cities Supplementary Grants

Renewal and Housing Management

14.602	Community Renewal Planning Grants
14.606	Neighborhood Development
14.609	Urban Renewal Projects

Department of the Interior

Bureau of Outdoor Recreation

15.400	Outdoor Recreation -- Financial Assistance
14.401	Outdoor Recreation Planning -- Financial Assistance

Bureau of Reclamation

15.501	Irrigation and Drainage Systems Loans
15.503	Small Reclamation Projects

Federal Water Pollution Control Administration

15.700 Construction Grants for Wastewater Treatment Works [1]

15.701 Water Pollution Control -- Comprehensive Basin Planning Grants [1]

15.707 Water Pollution Control -- State and Interstate Program Grants [1]

National Park Service

15.904 Historic Preservation

Department of Justice.

Law Enforcement Assistance Administration

16.500 Law Enforcement Assistance -- Comprehensive Planning

16.501 Law Enforcement Assistance -- Discretionary Grants

16.502 Law Enforcement Assistance -- Improving and Strengthening Law Enforcement

Department of Labor

Manpower Administration

17.205 Cooperative Area Manpower Planning System

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[1] These programs are administered by the new Environmental Protection Agency for which there is as yet no separate Catalog listing.

Department of Transportation

Federal Aviation Administration

20.102 Airport Development Aid Program

Federal Highway Administration

20.201 Forest Highways

20.204 Highway Beautification -- Landscaping and Scenic Enhancement

20.205 Highway Planning and Construction

20.206 Highway Planning and Research Studies

20.209 Public Lands Highways

20.211 Traffic Operations Program to Increase Capacity and Safety (Construction Only)

Urban Mass Transportation Administration

20.500 Urban Mass Transportation Capital Improvement Grants (Planning & Construction Only)

20.501 Urban Mass Transportation Capital Improvement Loans (Planning & Construction Only)

20.505 Urban Mass Transportation Technical Studies Grants (Planning and Construction Only)

Appalachian Regional Commission

23.003 Appalachian Development Highway System

23.004 Appalachian Health Demonstrations (planning and construction only)

23.008 Appalachian Local Access Roads

23.010 Appalachian Mine Area Restoration

23.012 Appalachian Vocational Education Facilities

National Science Foundation

47.036 Intergovernmental Science Programs

Office of Economic Opportunity

49.002 Community Action Operations (excluding administration, research, training and technical assistance, and evaluation).

Water Resources Council

65.001 Water Resources Planning

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

OMB CIRCULAR NO. A-95 (REVISED)
WHAT IT IS -- HOW IT WORKS

Revised Circular No. A-95, in addition to implementing (in part) Title IV of the Intergovernmental Cooperation Act of 1968 and Section 204 of the Demonstration Cities and Metropolitan Development Act of 1966, assists in the implementation of Section 102(2)(C) of the National Environmental Policy of 1969.

-- Title IV, among other things, directs the President to "establish rules and regulations governing the formulation, evaluation, and review of Federal programs and projects having a significant impact on area and community development." The basic objectives of this mandate center about the importance of sound and orderly development of urban and rural areas on the economic and social development of the Nation. Section 401(b) of the Act requires that "all viewpoints -- national, State, regional, and local -- shall, to the extent possible, be taken into account in planning Federal or federally assisted development programs and projects." Section 401(c) states, moreover, that "to the maximum extent possible, consistent with national objectives, all Federal aid for development purposes shall be consistent with and further the objectives of State, regional and local planning."

-- Section 204 of the Demonstration Cities and Metropolitan Development Act of 1966, requires that applications for Federal assistance to a wide variety of public facilities type projects (highways, hospitals, etc.).in metropolitan areas must be accompanied by the comments of an areawide comprehensive planning agency as to the relationship of the proposed project to the planned development of the area.

-- Section 102(2)(C) requires that Federal agencies prepare statements evaluating the impact of any actions they may take that significantly affect the environment. Such statements are submitted to the Council on Environmental Quality. Provision is made for inputs to these "environmental impact statements" by State and local governmental environmental quality agencies.

The following paragraphs are aimed at clarifying the Regulations promulgated by Circular No. A-95.

PART I: PROJECT NOTIFICATION AND REVIEW SYSTEM

The Project Notification and Review System (PNRS) may be thought of as an "early warning system" to facilitate coordination of State, regional, and local planning and development assisted under various Federal programs. Coordination is sought through review of applications for Federal assistance by State and metropolitan or regional clearinghouses. There are State clearinghouses in all fifty States (as well as in the District of Columbia and Puerto Rico). A network of over 350 metropolitan and regional (nonmetropolitan) clearinghouses covers nearly one-half of the Nation's counties which comprise approximately 85 per cent of the population.

The "early warning system" - project notifications. Under earlier regulations implementing section 204 of the Demonstration Cities and Metropolitan Development Act of 1966 the normal course of action for a State or local agency applying for Federal assistance was to prepare the application and submit it to the reviewing agency which had 60 days in which to file comments. However, this approach not only added 60 days to the time necessary for applying for aid, it often did not permit sufficient opportunity for effective coordination or constructive change in the application pursuant to the review. In some metropolitan areas, the areawide reviewing agency was able to persuade the applicant to consult with it prior to completion of the application. Early consultation permitted the review agency to assist the applicant in developing the project so as to avoid conflict with plans and programs of other jurisdictions.

It is this early consultation approach that the project notification approach seeks to encourage.

A potential applicant (State or local agency, or other) for assistance under a program covered by Part I is required, when he has decided to apply for a grant, to notify both the State and, as appropriate, the regional (nonmetropolitan) or metropolitan clearinghouse of his intent to do so. The notification is to include a brief summary description of the proposed project. The clearinghouses have 30 days in which to indicate their interest and to arrange for consultation on the project. If the clearinghouses notify the applicant that they have no interest in or problems with the proposed project, the applicant has fulfilled his obligation and need consult no further with them before completing and submitting the application to the Federal agency, unless the clearinghouse indicates an interest in reviewing the completed application.

If a clearinghouse indicates during the initial 30 day period a wish to confer with the applicant, conferences are arranged. During this period and subsequently, the applicant will be preparing his application. If conferences with the clearinghouse surface issues or conflicts over the proposed project, the clearinghouse may assist in the resolution of such problems. At any time problems are resolved, the clearinghouse may "sign off", concluding the review.

Thus, with the advice and assistance of the clearinghouses, by the time the application is completed either (1) all issues (if any) will have been resolved or (2) any remaining issues will be clearly identified. If necessary, a clearinghouse may have an additional 30 days in which to file comments to accompany the application.

(Note: The PNRS under the revised Circular no longer distinguishes between programs covered pursuant to Section 204 of the Demonstration Cities and Metropolitan Development Act of 1966 and those added pursuant to Title IV of the Intergovernmental Cooperation Act of 1968. All clearinghouses have 30 days to consider a project description - i.e., the "project notification" - and, if necessary, 30 days to consider the completed application (or a more complete description), prior to its submission to the Federal agency. This is true of all applications whether or not in a metropolitan area).

Notification: form and content. The amount and detail of information provided at the project notification stage will - because of the great diversity of programs covered - tend to be highly variable. For some projects, the application may be developed quickly and easily. In such cases, the application itself may serve as the notification.

In such cases, of course, the clearinghouse will want to expedite review as much as possible so as not to unnecessarily slow up the application process. For other types of projects, many months may be required to develop the application, and it may be that the information that can be provided at the notification stage may be quite sparse and sketchy. The important thing, however, is that the clearinghouse is put on notice. If information is inadequate, it can be fed in as it becomes available, but the clearinghouse may serve the applicant best if it is informed at the earliest stage. This permits the clearinghouse to steer the applicant away from conflicts or towards opportunity as he develops the specifics of the project for which he is seeking Federal aid.

For some programs, Federal agencies have developed what are, in effect, pre-application forms that can also serve quite effectively as project notifications. Standard Form 101 for water, sewer, and waste disposal assistance from HUD, USDA/FHA, FWQA and EDA is an example, as is OEO Form 46 for community action projects and activities. Inasmuch as a number of clearinghouses have developed their own forms, OMB has told Federal agencies that Federal forms are to be considered optional as project notification forms. However, where these have to be filled out anyway by the applicant, a double burden is put on him. Where this is the case, clearinghouses should consider the effects of this added effort on the applicant. What is important about the notification is the information that it carries, not the form on which it is written.

While the primary purpose of the PNRS is to coordinate Federally supported programs with State, areawide, and local plans and programs, it should be remembered that the purpose of the Federal programs is to help the applicant in the solution of a problem. Therefore, the PNRS emphasis should be on helping the applicant to develop the best possible project to achieve his objectives in a manner that will not do violence to the plans and programs of other jurisdictions and agencies.

Clearinghouse functions. There are three types of clearinghouses:

(1) State clearinghouse, a State agency with comprehensive planning capacity, designated by the Governor.

(2) Regional clearinghouse, a nonmetropolitan areawide agency with general planning capability, designated by the Governor.

(3) Metropolitan clearinghouse, a metropolitan areawide agency recognized as such as by the Office of Management and Budget for the purposes of section 204 of the Demonstration Cities and Metropolitan Development Act of 1966.

The term, "clearinghouse" is meant to fully reflect the functions of these agencies:

-- to identify the relationship of any project to Statewide or areawide comprehensive plans,

-- to identify the relationship of any project to the plans or programs of particular State agencies or local governments.

While clearinghouses are expected to have comprehensive planning capabilities or direct access to such capabilities in order to identify the compatibility of proposed projects to Statewide or areawide plans, the "clearinghouse" aspect is equally important. It can well happen that a project which is not inconsistent with State or areawide comprehensive planning may be in conflict with the plans or programs of a particular State or local agency.

Thus, when an applicant sends a notification to the State clearinghouse, the clearinghouse will not only examine the project from the standpoint of State comprehensive planning but will forward a copy of the notification to any State agencies having plans or programs that might be affected to ascertain their interest in participating in any follow-up conferences with the applicant. The regional or metropolitan clearinghouse to which the applicant also sends the nitification will, similarly, contact specific local governments and agencies which might be affected.

For example, community action or model cities agencies should receive notifications of projects which could have an impact on the poor; or agencies responsible for environmental quality should receive notifications of projects having an anticipated environmental impact.

It should be noted that when comments of these other parties are submitted through clearinghouses, the clearinghouses must transmit those comments to the applicant, and they too must accompany the application.

Relationships established with State and local agencies - including quasi-governmental and private agencies - through conscientious application of the "clearinghouse" aspect of the PNRS can enhance the status of the individual clearinghouse as a focal point for planning coordination. In addition the expert inputs of these agencies to the review process represent a useful supplement to the clearinghouse's own review resources and capabilities.

Applications from special purpose units of government. One important aspect of local government liaison function of the regional and metropolitan clearinghouses is the implementation of section 402 of the Intergovernmental Cooperation Act, which provides that:

> "Where Federal law provides that both special-purpose units of local government and units of general local government are eligible to receive loans or grants-in-aid, heads of of Federal departments and agencies shall, in the absence of substantial reasons to the contrary, make such loans or grants-in-aid to unit of general local government rather than to special-purpose units of local government."

Thus, when an application is to come from a special-purpose unit of government, it is a clearinghouse responsibility to assure that the Federal agency is informed as to the intentions of the general-purpose units within which the project is located so that it can act in compliance with section 402.

Inter-Clearinghouse relationships.

1. State/Metropolitan: While State and Metropolitan clearinghouses may conduct reviews quite independently of each other, it is

desirable that they establish cooperative arrangements for coordinating their reviews. A well coordinated State-metropolitan (or regional) review system will provide much better service to the applicant. It can reduce duplication of effort by clearinghouses as well as time spent by the applicant in conference and consultation. While it is possible that State and metropolitan clearinghouses may disagree over the merits of a project, a coordinated review is likely to produce a more consistent and thoroughgoing project evaluation.

2. Metropolitan/regional: In some States a rather more complex situation has risen which requires even closer coordination. Some Governors have designated regional clearinghouses that overlap or encompass metropolitan clearinghouse jurisdictions. Thus, an applicant may find himself in two clearinghouse jurisdictions, not knowing where his responsibilities lie.

OMB has urged clearinghouses to develop coordinative arrangements, particularly to alleviate applicant confusion. While such arrangements are being worked out, the OMB Clearinghouse Directory may list overlapped counties (which include municipalities, and other applicants therein) under both clearinghouse jurisdictions. This, however, still leaves the applicant with the burden of sending notifications to both metropolitan and regional clearinghouses as well as to the State clearinghouse. OMB has notified overlapping clearinghouses that it will accept any arrangements agreed to by major parties at interest, but it regards the problem as one for State and local determination.

This problem is further exacerbated in the case of interstate metropolitan areas where parts of the metropolitan clearinghouse jurisdiction may be included in regional clearinghouse areas in two or more States. A possible solution is to have notifications from within the metropolitan jurisdiction sent only to the metropolitan clearinghouse. It, in turn, would be required to pass on copies of the notification to the appropriate regional clearinghouse. This approach, of course, is equally possible in the case of intra-State clearinghouse overlaps.

3. Adjacent clearinghouses. Because projects in one region or metropolitan area may adversely affect an adjacent region -- airports, pollution facilities, for example -- clearinghouses in adjacent areas are required to establish coordinative arrangements to identify and mitigate possible interarea conflicts.

Federal agency responsibilities under the PNRS. Federal agency responsibilities under the PNRS are quite simple, and involve the following:

1. The Federal agency is responsible for informing potential applicants that they are required to submit to appropriate State and metropolitan clearinghouses notifications of intent to apply for

assistance under the particular program. Applicants should be told that no applications will be considered unless they have gone through the process. Directories of clearinghouses are supplied to Federal agencies by OMB. Contents of notifications are described in paragraph 5, Part I of the Circular.

2. Any comments accompanying applications are to be utilized by agency people in evaluating applications. A special case exists where an application is from a special purpose unit of government. If comments indicate a similar application is coming from the general purpose unit of government within which the applicant is located, preference will be given to the general purpose unit.

3. When any substantive action is taken on an application -- approval, return for amendment, rejection, etc. -- the Federal agency must so inform the clearinghouses through which the application has passed within 7 days after such action has been taken.

This latter responsibility is the most frequently overlooked among Federal agency responsibilities, yet it is extremely important to the clearinghouses. Most are comprehensive planning agencies and feedback information permits them to keep a running inventory of what development is taking place - or is *not* likely to happen.

Federal agencies may use any means of transmitting such information. Perhaps the simplest means is by copy of the letter that informs the applicant of the action. For approvals, a copy of Form 240 informing States of grant approvals under Circular No. A-98 may be used.

Environmental impact. Section 102(2)(C) of the National Environmental Policy Act requires Federal agencies to submit to the Council on Environmental Quality - on any action significantly affecting the environment - an "environmental impact statement." While it is the Federal agency that must submit the statement, many or most agencies administering grant-in-aid programs will require the applicant to submit information on such projects, on which environmental impact statements can be based.

Section 102(2)(C) provides for an input to environmental impact statements by *State and local agencies which are authorized to develop and enforce environmental quality standards*. Thus, it is the responsibility of clearinghouses to identify State or local environmental agencies, provide them with project notifications, and assure them opportunity to make such comments as they may deem appropriate. Of course, in some cases the clearinghouse itself may have direct environmental responsibilities.

Beyond this, the clearinghouse, if it so desires, may assist applicants in the preparation of necessary environmental impact data or provide its own comments on the environmental impact of both Federal and Federally-assisted projects, or undertake other related action in assisting or facilitating State and local inputs into environmental impact statements.

Program coverage under Part I. Attachment D of Circular No. A-95 lists - by reference to the Catalog of Federal Domestic Assistance numbers and titles - the programs under which applications for assistance are subject to the requirements of Part I. These are mostly programs assisting physical development, although a number of social or human resource programs are covered as well.

In order to focus the review resources of clearinghouses on projects of areawide or interjurisdictional significance, provision is made for exclusion of certain categories of projects under various programs. Such exclusions would need to meet certain criteria such as lack of geographical identification (e.g., certain broadly based research projects) or purely local input (e.g., a 1/2 acre tot-lot). Exclusions would be proposed by the Federal agency administering the program and would need the concurrence of OMB in consultation with appropriate public interest groups. Clearinghouses will be notified of any exclusions. Beyond this, of course, any clearinghouse may choose to further limit the scope of its reviews. Local circumstance and clearinghouse resources will indicate the feasibility of further limitations.

Housing reviews. The revised Circular covers HUD housing assistance and mortgage insurance programs for projects of certain minimum sizes:

- in subdividions, 50 or more lots;
- in multi-family projects, 100 or more dwelling units;
- in mobile home courts, 100 or more units; and
- in college housing, accommodations for 200 or more students.

The review process under the PNRS is different for these projects. Under HUD housing assistance procedures, a developer submits what is, in effect, a preliminary application to a HUD area or insuring office. The application contains a description of the project, detailed enough for HUD to evaluate it, but lacking detailed construction plans. Generally, the evaluation is made quite rapidly, taking no more than a matter of several weeks, and the developer is notified as to whether the project appears approvable for mortgage insurance commitment or other support. Even if FHA mortgage insurance is not going to be sought, some mortgage lenders will require a favorable FHA report before they will make a construction loan.

The A-95 review process for HUD housing programs will operate with respect to this pre-application phase and consequently may cover not only projects which will be insured or supported by HUD but also some whose financing will be conventional.

The process will operate as follows: when the HUD area or insuring office receives a request for what is called a "feasibility analysis", it will send copies to the appropriate State and metro or regional clearinghouses. The clearinghouses will have 15 days to submit comments on the relationship of the proposed project to State or areawide plans and programs or on any questions of environmental impact. Since HUD approvals require conformance to local zoning and subdivision regulations, the locality normally would already have been contacted by the prospective developer.

While the time span is very short for housing reviews, this stage of the application process is the most critical for clearinghouse inputs. It is also extremely critical for the developer, and to extend the review time for clearinghouse reviews in view of the relatively short HUD processing time at this stage would be a disservice. Clearinghouses are urged to establish early liaison with the appropriate HUD offices to acquaint themselves with the HUD housing programs and procedures and to acquaint HUD officials with clearinghouse missions and operations in order to maximize the effectiveness of housing reviews.

Because of local zoning and subdivision controls or local comprehensive plan requirements, clearinghouse inputs may be minimal with respect to many or most individual projects except those of major size or strategic location. The primary value of notifications to clearinghouses is the intelligence they provide of emerging growth patterns that will have to be considered in the areawide comprehensive planning process.

A-95 and A-98 relationships. The substance of Circular No. A-98 was originally Part III of Circular No. A-95. Circular No. A-98 promulgates a standard form (No. 240) for Federal agencies to use in reporting the amount and purpose of grants-in-aid made within each State as required by Section 201 of the Intergovernmental Cooperation Act of 1968. This information is useful to State for budgetary planning and programming. Many states, particularly where the State clearinghouse also handles grant award information, have developed a computerized system for handling this information and have tied it to the PNRS under A-95. The objective of the tie-in is to trace Federal grants from the initial application to Federal funding. This permits the State to not only know what grants have actually been made (A-98) but to anticipate grants that may be made (A-95), giving additional perspectives for State planning, programming and budgeting.

Of course, the notice of grant awards under A-98 covers a substantially greater range of grant programs than does A-95. At the present time, also, not all States have tried to integrate A-95 and A-98 information, nor have metropolitan and regional clearinghouses who do not receive A-98 information directly, although the States are required to make it available to them.

PART II: DIRECT FEDERAL DEVELOPMENT

Part II requires that Federal agencies engaged in direct development of Federal projects such as Federal civil works, military or scientific installations, public buildings, etc., must consult with State and local governments that might be affected by those projects. Where projects are not in conformity with State, regional or local plans the Federal agency will be required to justify any departures. The requirement applies not only to construction but to the acquisition, use, and disposal of Federal real property.

In addition, in the preparation of environmental impact statements pursuant to Section 102(2)(C) of the National Environmental Policy Act, these Federal development agencies are required to seek the views and comments of State and local environmental agencies. Regulations of the Council on Environmental Quality indicate the clearinghouses as the appropriate channel through which to secure the required State and local views and comments.

The clearinghouses designated pursuant to Part I of the Circular provide the most effective vehicle available to Federal development agencies to assure that all appropriate State and local agencies are consulted on proposed projects. The clearinghouses are generally the State, metropolitan, or regional comprehensive planning agencies; and in conducting the PNRS reviews they have occasion to identify the interests of all development agencies at State and local levels. Thus, Federal agencies will generally need to touch base with clearinghouses in any event. And while the nature of Federal development may not always lend itself to the project notification and review system per se, the clearinghouses can greatly facilitate the consultation required under Part II of revised Circular No. A-95.

PART III: STATE PLANS

Numerous Federal assistance programs require, as a condition of assistance, submission of State plans. These are highly variable in nature and content. While some are plans in the normal sense - "What do I want to do and how am I going to do it?" -- others only indicate the basic administrative apparatus through which the program will be carried out. However, associated documentation required to be prepared or submitted on a periodic basis will generally provide information as to the specific activities for which program funds will be spent, even though this information does not appear in the "plan" itself.

Part III requires that Governors be given an opportunity to review such plans or associated documents indicating proposed program activities. This will permit the Governor to relate development strategies among the various Federally supported State programs to each other and to any overall strategies developed through the State comprehensive planning process.

PART IV: COORDINATION OF PLANNING AND DEVELOPMENT IN MULTIJURISDICTIONAL AREAS

Part IV of the Regulations was developed to offset a growing tendency among Federal programs to promote the establishment of regional planning activities that were uncoordinated, geographically or functionally. In nonmetropolitan areas this has meant a serious drain on already limited planning resources. In metropolitan areas it has intensified confusion and general duplication of effort.

Part IV of the Regulations is closely related to Part I. By encouraging the States to develop systems of sub-State planning areas, it sets the stage for a more complete geographic coverage of the Project Notification and Review System. Similarly, the PNRS by requiring clearinghouse review of projected planning and development activities under various Federal programs, sets the stage for the more systematic and continuing planning coordination envisioned under Part IV.

While the most obvious aspect of Part IV is its emphasis on conforming the boundaries of Federally sponsored planning and development districts with each other and State-established districts, an equally significant requirement (paragraph 3) of Part IV is often overlooked. This is the requirement that applicants for Federal assistance to activities planned on a multijurisdictional basis coordinate their planning with planning for related programs in the area. This would involve identifying related planning activities and organizations and demonstrating what coordinative arrangements have been or are being established.

Paragraph 3 of Part IV provides in effect, an operational definition of planning coordination and identifies -- but does not prescribe -- various coordinative techniques such as the establishment of umbrella organizations under which various organizations could be coordinated operationally and policy-wise while maintaining their own identities, if that is necessary. Metropolitan and regional clearinghouses could lend themselves well to this role in many cases.

Coordinative devices that can prevent overlap and duplication of planning include arrangements for joint staffing and facilities, cooperative research and data gathering, and utilization of common and consistent statistics, projections, and assumptions about the area and its future. The latter is extremely important, both in terms of resource savings and in eliminating one of the most basic sources of plan conflicts.

The achievement of these coordinative arrangements, then, is a necessary concomitant effort with conforming boundaries; for a common territorial base by itself does not assure coordination. There must be contact, communication, and cooperation between organizations planning for various aspects of area development for that to occur.

SUMMARY

OMB Circular No. A-95 is fundamentally an effort to create a climate where intergovernmental cooperation can take root and flourish. It does this by creating opportunities for contact and communication within and between the several levels of government. This contact and communication is a necessary precondition for coordination.

In order to take full advantage of those opportunities, it is important that the various actors have an appreciation of the requirements as opportunities, rather than as administrative obstacles.

-- The applicant should recognize the opportunity to develop a better project through avoidance of conflict and the discovery of means for getting "more bang for the buck" out of its investment.

-- The Federal agency should recognize the opportunity for increasing program effectiveness through the same means and through applicant awareness of the need for sound planning and coordination.

-- The clearinghouses should recognize the opportunities for providing real service to applicants which will enhance their credibility and status as a constructive force in the area or in the management of the State government.

In sum, the Regulations promulgated under Bureau of the Budget Circular No. A-95 are aimed at promoting more effective coordination of planning and development activities carried on or assisted by the Federal Government. The major device of the Regulation is encouragement of systematic communications between the Federal Government and State and local governments carrying out related planning and development activities. Used judiciously by State and local governments and regional bodies, the processes set forth in the Regulations can result in more expeditious, more effective, and more economical development.

EXHIBIT 1

PROJECT NOTIFICATION AND REVIEW SYSTEM

The following outlines the process of the "Project Notification System" developed to implement, in part, Title IV of the Intergovernmental Cooperation Act.

STEP 1. Potential applicant desiring Federal assistance makes inquiries of Federal agency.

STEP 2. Federal agency informs applicant that, among other things, it must notify both State and regional (or metropolitan) clearinghouses about the project for which it intends to apply for assistance.

STEP 3. Applicant notifies clearinghouses.

STEP 4a. State clearinghouse notifies State agencies which might have programs affected by proposed project, including where appropriate, environmental agencies.

b. Regional or metropolitan clearinghouse notifies local government agencies whose interests might be affected by the proposed project, including where appropriate, local and regional environmental agencies.

STEP 5. State agencies or local governments inform clearinghouse of interest, if any.

STEP 6. Clearinghouse arranges conference with applicant within 30 days of notification pursuant to its own or other State or local interest.

STEP 7. Conferences are held to:

a. Explore project in greater detail.
b. Identify possible conflicts or mutuality of interest.

STEP 8. If continuing interest, applicant and clearinghouses (with any State or local interest), cooperate in developing application to:

a. Resolve conflicts
b. Strengthen project

STEP 9. If conflicts are not resolved, clearinghouse notifies applicant that it will have comments to accompany the application. (Note: Conflicts may arise as between clearinghouses or particular State agencies or local governments as to the merit of a project, so such comments may be variably supportive or critical.)

STEP 10. Applicant submits application (or adequate project description) to clearinghouse(s) for comment, providing 30 days therefor.

STEP 11. Clearinghouse(s) submits any formal comments of its own or of particular State agencies or local governments to applicant.

STEP 12. Applicant submits application to Federal agency, including comments, if any; or, if none, a statement that requirement has been followed.

STEP 13. Federal agency considers application and comments and informs clearinghouses of action taken thereon.

It is possible for the process to come to a satisfactory conclusion at the completion of Steps 5, 7, or 8 as well as, of course, Step 13. At either of the earlier Steps, clearinghouses can inform applicant of general satisfaction with the project and that they will have no (or supportive) comment. In such case, the applicant completes the application and submits it to the Federal agency with a statement that the requirement has been followed (or with any supportive comment). Step 13 - Information to clearinghouses on action taken on the application by the Federal agency is, of course, always required.

§ 1857f. Control and abatement of air pollution from Federal facilities: compliance of Federal departments, etc., with Federal, State, interstate, and local requirements; exemption by President of any emission source from any executive branch department, etc.; report to Congress

Each department, agency, and instrumentality of the executive, legislative, and judicial branches of the Federal Government (1) having jurisdiction over any property or facility, or (2) engaged in any activity resulting, or which may result, in the discharge of air pollutants, shall comply with Federal, State, interstate, and local requirements respecting control and abatement of air pollution to the same extent that any person is subject to such requirements. The President may exempt any emission source of any department, agency, or instrumentality in the executive branch from compliance with such a requirement if he determines it to be in the paramount interest of the United States to do so, except that no exemption may be granted from section 1857c—6 of this title, and an exemption from section 1857c—7 of this title may be granted only in accordance with 1857c—7(c) of this title. No such exemption shall be granted due to lack of appropriation unless the President shall have specifically requested such appropriation as a part of the budgetary process and the Congress shall have failed to make available such requested appropriation. Any exemption shall be for a period not in excess of one year, but additional exemptions may be granted for periods of not to exceed one year upon the President's making a new determination. The President shall report each January to the Congress all exemptions from the requirements of this section granted during the preceding calendar year, together with his reason for granting each such exemption.

July 14, 1955, c. 360, Title I, § 118, formerly § 7, as added Dec. 17, 1963, Pub.L. 88-206, § 1, 77 Stat. 399, renumbered § 107, Oct. 20, 1965, Pub.L. 89-272, Title I, § 101(3), 79 Stat. 992, renumbered § 111, and amended Nov. 21, 1967, Pub. L. 90-148, § 2, 81 Stat. 499, renumbered § 118, and amended Dec. 31, 1970, Pub.L. 91-604 §§ 4(a), 5, 84 Stat. 1678, 1689.

FEDERAL WATER POLLUTION CONTROL ACT
Section 21(a)

§ 1171. Cooperation by all Federal agencies in pollution control —Administration of Federal property consonant with applicable water quality standards and pollution control programs; summary of pollution conference, notice of hearing, and findings and recommendations of hearing board concerning alleged polluting discharges by Federal agencies

(a) Each Federal agency (which term is used in this section includes Federal departments, agencies, and instrumentalities) having jurisdiction over any real property or facility, or engaged in any Federal public works activity of any kind, shall, consistent with the paramount interest of the United States as determined by the President, insure compliance with applicable water quality standards and the purposes of this chapter in the administration of such property, facility, or activity. In his summary of any conference pursuant to section 1160(d) (4) of this title, the Secretary shall include references to any discharges allegedly contributing to pollution from any such Federal property, facility, or activity, and shall transmit a copy of such summary to the head of the Federal agency having jurisdiction of such property, facility, or activity. Notice of any hearing pursuant to section 1160(f) of this title involving any pollution alleged to be effected by any such discharges shall also be given to the Federal agency having jurisdiction over the property, facility, or activity involved, and the findings and recommendations of the hearing board conducting such hearing shall include references to any such discharges which are contributing to the pollution found by such board.

SOLID WASTE DISPOSAL ACT
Section 211(a)

§ 3254e. Applicability of solid waste disposal guidelines to Executive agencies

(a) (1) If—

(A) an Executive agency (as defined in section 105 of Title 5) has jurisdiction over any real property or facility the operation or administration of which involves such agency in solid waste disposal activities, or

(B) such an agency enters into a contract with any person for the operation by such person of any Federal property or facility, and the performance of such contract involves such person in solid waste disposal activities,

then such agency shall insure compliance with the guidelines recommended under section 3254c of this title and the purposes of this chapter in the operation or administration of such property or facility, or the performance of such contract, as the case may be.

(2) Each Executive agency which conducts any activity—

(A) which generates solid waste, and

(B) which, if conducted by a person other than such agency, would require a permit or license from such agency in order to dispose of such solid waste,

shall insure compliance with such guidelines and the purposes of this chapter in conducting such activity.

(3) Each Executive agency which permits the use of Federal property for purposes of disposal of solid waste shall insure compliance with such guidelines and the purposes of this chapter in the disposal of such waste.

(4) The President shall prescribe regulations to carry out this subsection.

EXECUTIVE ORDER NO. 11507

Feb. 4, 1970, 35 Fed. Reg. 2573

PREVENTION, CONTROL, AND ABATEMENT OF AIR AND WATER POLLUTION AT FEDERAL FACILITIES

By virtue of the authority vested in me as President of the United States and in furtherance of the purpose and policy of the Clean Air Act, as amended (42 U.S.C. 1857) [section 1857 et seq. of this title], the Federal Water Pollution Control Act, as amended (33 U.S.C. 466) [section 466 et seq. of Title 33, Navigation and Navigable Waters], and the National Environmental Policy Act of 1969 (Public Law No. 91–190, approved January 1, 1970) [this chapter], it is ordered as follows:

Section 1. Policy. It is the intent of this order that the Federal Government in the design, operation, and maintenance of its facilities shall provide leadership in the nationwide effort to protect and enhance the quality of our air and water resources.

Sec. 2. Definitions. As used in this order:

(a) The term "respective Secretary" shall mean the Secretary of Health, Education, and Welfare in matters pertaining to air pollution control and the Secretary of the Interior in matters pertaining to water pollution control.

(b) The term "agencies" shall mean the departments, agencies, and establishments of the executive branch.

(c) The term "facilities" shall mean the buildings, installations, structures, public works, equipment, aircraft, vessels, and other vehicles and property, owned by or constructed or manufactured for the purpose of leasing to the Federal Government.

(d) The term "air and water quality standards" shall mean respectively the quality standards and related plans of implementation, including emission standards, adopted pursuant to the Clean Air Act, as amended, and the Federal Water Pollution Control Act, as amended, or as prescribed pursuant to section 4(b) of this order.

(e) The term "performance specifications" shall mean permissible limits of emissions, discharges, or other values applicable to a particular Federal facility that would, as a minimum, provide for conformance with air and water quality standards as defined herein.

(f) The term "United States" shall mean the fifty States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, and Guam.

Sec. 3. Responsibilities. **(a) Heads of agencies shall, with regard** to all facilities under their jurisdiction:

(1) Maintain review and surveillance to ensure that the standards set forth in section 4 of this order are met on a continuing basis.

(2) Direct particular attention to identifying potential air and water quality problems associated with the use and production of new materials and make provisions for their prevention and control.

(3) Consult with the respective Secretary concerning the best techniques and methods available for the protection and enhancement of air and water quality.

(4) Develop and publish procedures, within six months of the date of this order, to ensure that the facilities under their jurisdiction are in conformity with this order. In the preparation of such procedures there shall be timely and appropriate consultation with the respective Secretary.

(b) The respective Secretary shall provide leadership in implementing this order, including the provision of technical advice and assistance to the heads of agencies in connection with their duties and responsibilities under this order.

(c) The Council on Environmental Quality shall maintain continuing review of the implementation of this order and shall, from time to time, report to the President thereon.

Sec. 4. Standards. (a) Heads of agencies shall ensure that all facilities under their jurisdiction are designed, operated, and maintained so as to meet the following requirements:

(1) Facilities shall conform to air and water quality standards as defined in section 2(d) of this order. In those cases where no such air or water quality standards are in force for a particular geographical area, Federal facilities in that area shall conform to the standards established pursuant to subsection (b) of this section. Federal facilities shall also conform to the performance specifications provided for in this order.

(2) Actions shall be taken to avoid or minimize wastes created through the complete cycle of operations of each facility.

(3) The use of municipal or regional waste collection or disposal systems shall be the preferred method of disposal of wastes from Federal facilities. Whenever use of such a system is not feasible or appropriate, the heads of agencies concerned shall take necessary measures for the satisfactory disposal of such wastes, including:

(A) When appropriate, the installation and operation of their own waste treatment and disposal facilities in a manner consistent with this section.

(B) The provision of trained manpower, laboratory and other supporting facilities as appropriate to meet the requirements of this section.

(C) The establishment of requirements that operators of Federal pollution control facilities meet levels of proficiency consistent with the operator certification requirements of the State in which the facility is located. In the absence of such State requirements the respective Secretary may issue guidelines, pertaining to operator qualifications and performance, for the use of heads of agencies.

(4) The use, storage, and handling of all materials, including but not limited to, solid fuels, ashes, petroleum products, and other chemical and biological agents, shall be carried out so as to avoid or minimize the possibilities for water and air pollution. When appropriate, preventive measure shall be taken to entrap spillage or discharge or otherwise to prevent accidental pollution. Each agency, in consultation with the respective Secretary, shall establish appropriate emergency plans and procedures for dealing with accidental pollution.

(5) No waste shall be disposed of or discharged in such a manner as could result in the pollution of ground water which would endanger the health or welfare of the public.

(6) Discharges of radioactivity shall be in accordance with the applicable rules, regulations, or requirements of the Atomic Energy Commission and with the policies and guidance of the Federal Radiation Council as published in the FEDERAL REGISTER.

(b) In those cases where there are no air or water quality standards as defined in section 2(d) of this order in force for a particular geographic area or in those cases where more stringent requirements are deemed advisable for Federal facilities, the respective Secretary, in consultation with appropriate Federal, State, interstate, and local agencies, may issue regulations establishing air or water quality standards for the purpose of this order, including related schedules for implementation.

(c) The heads of agencies, in consultation with the respective Secretary, may from time to time identify facilities or uses thereof which are to be exempted, including temporary relief, from provisions of this order in the interest of national security or in extraordinary cases where it is in the national interest. Such exemptions shall be reviewed periodically by the respective Secretary and the heads of the agencies concerned. A report on exemptions granted shall be submitted to the Council on Environmental Quality periodically.

Sec. 5. Procedures for abatement of air and water pollution at existing Federal facilities. (a) Actions necessary to meet the requirements of subsections (a) (1) and (b) of section 4 of this order pertaining to air and water pollution at existing facilities are to be completed or under way no later than December 31, 1972. In cases where an enforcement conference called pursuant to law or air and water quality standards require earlier actions, the earlier date shall be applicable.

(b) In order to ensure full compliance with the requirements of section 5(a) and to facilitate budgeting for necessary corrective and preventive measures, heads of agencies shall present to the Director of the Bureau of the Budget by June 30, 1970, a plan to provide for such improvements as may be necessary to meet the required date. Subsequent revisions needed to keep any such plan up-to-date shall be promptly submitted to the Director of the Bureau of the Budget.

(c) Heads of agencies shall notify the respective Secretary as to the performance specifications proposed for each facility to meet the requirements of subsections 4(a) (1) and (b) of this order. Where the respective Secretary finds that such performance specifications are not adequate to meet such requirements, he shall consult with the agency head and the latter shall thereupon develop adequate performance specifications.

(d) As may be found necessary, heads of agencies may submit requests to the Director of the Bureau of the Budget for extensions of time for a project beyond the time specified in section 5(a). The Director, in consultation with the respective Secretary, may approve such requests if the Director deems that such project is not technically feasible or immediately necessary to meet the requirements of subsections 4(a) and (b). Full justification as to the extraordinary circumstances necessitating any such extension shall be required.

(e) Heads of agencies shall not use for any other purpose any of the amounts appropriated and apportioned for corrective and preventive measures necessary to meet the requirements of subsection (a) for the fiscal year ending June 30, 1971, and for any subsequent fiscal year.

Sec. 6. Procedures for new Federal facilities. (a) Heads of agencies shall ensure that the requirements of section 4 of this order are considered at the earliest possible stage of planning for new facilities.

(b) A request for funds to defray the cost of designing and constructing new facilities in the United States shall be included in the annual budget estimates of an agency only if such request includes funds to defray the costs of such measures as may be necessary to assure that the new facility will meet the requirements of section 4 of this order.

(c) Heads of agencies shall notify the respective Secretary as to the performance specifications proposed for each facility when action is necessary to meet the requirements of subsections 4(a)(1) and (b) of this order. Where the respective Secretary finds that such performance specifications are not adequate to meet such requirements he shall consult with the agency head and the latter shall thereupon develop adequate performance specifications.

(d) Heads of agencies shall give due consideration to the quality of air and water resources when facilities are constructed or operated outside the United States.

Sec. 7. Procedures for Federal water resources projects. (a) All water resources projects of the Departments of Agriculture, the Interior, and the Army, the Tennessee Valley Authority, and the United States Section of the International Boundary and Water Commission shall be consistent with the requirements of section 4 of this order. In addition, all such projects shall be presented for the consideration of the Secretary of the Interior at the earliest feasible stage if they involve proposals or recommendations with respect to the authorization or construction of any Federal water resources project in the United States. The Secretary of the Interior shall review plans and supporting data for all such projects relating to water quality, and shall prepare a report to the head of the responsible agency describing the potential impact of the project on water quality, including recommendations concerning any changes or other measures with respect thereto which he considers to be necessary in connection with the design, construction, and operation of the project.

(b) The report of the Secretary of the Interior shall accompany at the earliest practicable stage any report proposing authorization or construction, or a request for funding, of such a water resource project. In any case in which the Secretary of the Interior fails to submit a report within 90 days after receipt of project plans, the head of the agency concerned may propose authorization, construction, or funding of the project without such an accompanying report. In such a case, the head of the agency concerned shall explicitly state in his request or report concerning the project that the Secretary of the Interior has not reported on the potential impact of the project on water quality.

Sec. 8. Saving provisions. Except to the extent that they are inconsistent with this order, all outstanding rules, regulations, orders, delegations, or other forms of administrative action issued, made, or otherwise taken under the orders superseded by section 9 hereof or relating to the subject of this order shall remain in full force and effect until amended, modified, or terminated by proper authority.

Sec. 9. Orders superseded. Executive Order No. 11282 of May 26, 1966, and Executive Order No. 11288 of July 2, 1966, are hereby superseded.

RICHARD NIXON

EXECUTIVE OFFICE OF THE PRESIDENT

BUREAU OF THE BUDGET
WASHINGTON, D.C. 20503

May 18, 1970

CIRCULAR NO. A-78
Revised

TO THE HEADS OF EXECUTIVE DEPARTMENTS AND ESTABLISHMENTS

SUBJECT: Reporting requirements in connection with the prevention, control, and abatement of air pollution at existing Federal facilities

1. Purpose. This Circular provides procedures to be followed by Federal agencies in carrying out the air pollution control provisions of section 5, pertaining to existing Federal facilities, and related aspects of Executive Order No. 11507 of February 4, 1970, entitled "Prevention, Control, and Abatement of Air and Water Pollution at Federal Facilities," hereinafter referred to as the Order. This Circular supersedes and replaces Bureau of the Budget Circular No. A-78 dated August 6, 1966.

2. Definitions. As used in this Circular:

a. The term "Secretary" means the Secretary of Health, Education, and Welfare, or his designee.

b. The term "agencies" means the departments, agencies, and establishments of the executive branch.

c. The term "facilities" means the buildings, installations, structures, public works, equipment, aircraft, vessels, and other vehicles and property, owned by or constructed or manufactured for the purpose of leasing to the Federal Government in the United States.

d. The term "air quality standards" means the air quality standards and related plans of implementation, including emission standards, adopted pursuant to the Clean Air Act, as amended (42 U.S.C. 1857).

e. The term "performance specifications" means permissible limits of emissions, discharges, or other values applicable to a particular Federal facility that would, as a minimum, provide for conformance with the air quality standards or other applicable standards.

f. Unless otherwise indicated, the term "cost" means the amount (budget authority) required for putting in place the necessary air pollution control measures. These costs include the capital costs of structures and equipment, irrespective of the appropriation chargeable, but not the annual maintenance and operating costs.

g. The term "United States" means the fifty States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, and Guam.

h. The term "other vehicles" means any self-propelled vehicles designed for transporting persons or property on a street or highway.

3. Agency responsibilities. Pursuant to their responsibilities under the Order, Federal agencies should:

a. Seek the assistance of the Secretary at the earliest feasible time when necessary to determine the standards applicable to particular facilities and the appropriate implementation schedules specified by the Order.

b. Provide the Secretary with such data and information as he may need to evaluate the air pollution control aspects of proposals submitted pursuant to this Circular, the implementation of these plans, and existing and potential air pollution control problems.

c. Cooperate with State and local pollution control agencies and with other Federal agencies in the evaluation of their pollution control needs and, if appropriate, in the provision or installation of joint or regional pollution control measures.

4. Communications with the Secretary. Communications with the Secretary in connection with this Circular should be directed to the National Air Pollution Control Administration, attention: Federal Facilities Branch, Parklawn Building, Rockville, Maryland 20852.

5. Applicable standards

a. All Federal facilities are required by the Order to conform to:

(1) Air quality standards and related implementation plans adopted pursuant to the Clean Air Act (section 4(a) of the Order), or

(2) New standards which may be promulgated by the Secretary (section 4(b) of the Order), or

(3) Regulations previously promulgated by the Secretary pursuant to Executive Order No. 11282 published in 42 CFR 76. Section 8 of Executive Order No. 11507 continues these existing regulations in effect until amended or terminated. These regulations specify emission limitations for particular pollutants and require in certain instances that Federal facilities conform with State or local standards. These regulations are contained in Attachment B and are provided for the convenience of the agencies.

b. For the purpose of the June 30, 1970, report required by paragraph 6 of this Circular, the standards to be considered to be in effect for Federal facilities are those promulgated by the Secretary under Executive Order No. 11282 (paragraph 5a(3) above). As implementation plans for a particular region are developed by the States and are approved by the Secretary, they will be assumed to supersede requirements previously promulgated by the Secretary for Federal facilities in that region unless the Secretary hereafter prescribes more stringent requirements for such Federal facilities. Upon approval of these implementation plans or the promulgation of standards pursuant to section 4(b) of the Order, if "costs" as defined in paragraph 2(f) of this Circular must be incurred to bring an agency's facilities into conformity with these requirements, the agency should amend the plan required by this Circular to provide at the earliest feasible date for the correction of these facilities.

c. As a general rule, mobile facilities such as aircraft, vessels, and other vehicles including automobiles will be subject to standards which may be issued by the Secretary pursuant to section 4(b) of the Order. In certain cases mobile facilities may be subject to air quality standards adopted by the States and approved by the Secretary.

d. Since air pollution standards for many pollutants are still in the development stage, agencies may have some difficulty in determining the pollution control measures appropriate for a particular facility. Agencies should therefore take into account such factors as: the best practical technology available; the need, if any, for excess pollution control capacity; the possible need to control other pollutants at the same facility in the future; the various alternative methods of control including process changes; and the relative costs of these alternatives, based on the use of adequate standard accounting techniques.

6. Agency plan-general provisions

a. Requirement. The fiscal plan for improvements at existing facilities required previously by Circular No. A-78 will be updated and submitted by June 30, 1970, and thereafter as prescribed herein. This updated agency plan will provide for compliance by existing facilities with the applicable standards and the deadlines specified by the Order. Agencies which did not submit a report previously but which have facilities requiring correction under the Order should submit a plan in the format shown in Exhibits 1 and 2.

b. Coverage. The agency plan should include all projects involving "costs," as defined in paragraph 2(f) of this Circular, which are necessary to bring existing facilities into compliance with applicable standards. The agency plan should also include all completed or discontinued projects listed in earlier plans.

c. General format. The information required for the agency plan will be submitted in the form of Exhibits 1 and 2. Pertinent details for each individual project are given on Exhibit 1. Exhibit 2 is a summary and status report of the agency plan for air pollution abatement at existing facilities. Exhibit 2 is to be on legal size paper measuring 13 or 14 inches in the longest dimension. Reports may be submitted in the form of computer printouts only upon specific approval of the Bureau of the Budget.

d. Preparation and submission of Exhibits. Specific details for the preparation and submission of Exhibits 1 and 2 are given in Attachment A. In general, a complete set of Exhibits is due by June 30, 1970. Thereafter, Exhibit 2 is to be updated and submitted quarterly, and Exhibit 1 is to be submitted only for new projects or for major revisions of prior submissions. For each submission, three copies are to be sent to the Bureau of the Budget and two copies are to be sent to the Secretary.

e. Project numbers. Agencies will assign consecutive numbers, beginning with "1," to all air pollution control projects, including those in the plan submitted on July 1, 1967, and in subsequent revisions of the plan. Project numbers are for permanent identification and may not be reassigned to new projects.

f. Phasing of projects. Insofar as possible, all projects that were not included in the FY 1971 budget or funded in prior years should be prepared for possible inclusion in the FY 1972 budget. Any remaining or new projects necessary to meet these standards should be made ready for possible inclusion in the FY 1973 budget.

7. Type of facilities covered.

a. Facilities which have not been constructed, manufactured, or contracted for, but for which design or other work predating the Order has advanced to a stage at which it would be impractical to carry out the provisions of section 6 of the Order ("Procedures for new Federal facilities"), may be considered the same as "existing facilities" for the purposes of this Circular.

b. The Order and this Circular cover facilities which are constructed or manufactured for lease to the Federal Government, as well as those which are owned by the Federal Government. "Lease-construction" is an example of a type of facility covered under this provision, but facilities used under ordinary leases are not covered. Lease-construction facilities should be conspicuously identified on Exhibits 1 and 2. Exhibit 1 should include a brief discussion of the lease arrangements that would affect the possibility and practicality of installing abatement measures for such facilities.

8. Report on additional abatement activities. Each June 30, agencies will report actions (accomplished or planned) which do not entail "costs" as defined in section 2(f) of this Circular but which do involve significant efforts to comply with section 5(a) of the Order. Agencies should indicate the type of actions taken (e.g., purchase of fuel with no more than 1% sulfur content for all facilities in certain cities), the approximate incremental costs, and whether or not such costs are recurring. The report will be prepared in the format shown in Exhibit 3.

No special budgeting procedures will be required to implement these actions. However, this Exhibit, when combined with Exhibits 1 and 2, should present a comprehensive view of the agency's actions to comply with section 5(a) of the Order.

9. Extensions of time. Requests for delaying required remedial measures beyond the dates specified by section 5(a) of the Order should be transmitted to the Bureau of the Budget no later than June 30, 1970, unless compelling circumstances would require such action at a later date. Such requests should be separate from the information provided on the Exhibits submitted for the agency plan. The agency should also submit an Exhibit 1 in such instances indicating the proposed plan for installing remedial measures and the justifying circumstances for the delay as required by section 5(d) of the Order.

10. Review. The Secretary will assist in evaluating the air pollution control aspects of projects submitted under this Circular. He will provide periodic appraisals of the operation and performance of such measures, as well as of other Government-related air pollution control needs and related costs.

11. Similarity to Circular No. A-81 (water pollution). This Circular and Attachment A are very similar or identical to Circular No. A-81 dated May 1970 (water pollution) except paragraphs 2(h), 5, 6(d), and 8 of the Circular and 1(a)1, 1(d), 2(h), and 2(i) of Attachment A. Exhibit 2 is identical to Exhibit 2 of Circular No. A-81, but Exhibits 1 and 3 are tailored to fit the informational needs of the air pollution program. Submission requirements for Exhibits 1 and 2 are identical for both Circulars.

12. Inquiries. Questions regarding the implementation of this Circular should be addressed to the Human Resources Programs Division, Bureau of the Budget, Washington, D.C., 20503.

ROBERT P. MAYO
Director

Attachments

ATTACHMENT A
Circular No. A-78
Revised

INSTRUCTIONS FOR THE PREPARATION AND SUBMISSION OF EXHIBITS

1. Exhibit 1, "Proposed Project Report"

a. An Exhibit 1 will be submitted by June 30, 1970, for each pollution control project included in the agency plan, with the following exceptions:

(1) Only one Exhibit 1 need be submitted for each group of mobile facilities (e.g., aircraft, automobiles, ships) where these facilities have similar air pollution problems and where similar pollution control measures are appropriate.

(2) In those cases where the agency has already submitted an Exhibit A for a particular project under the previous edition of this Circular and funds have already been appropriated by Congress or are expected to be appropriated for FY 1971, and there is no indication that additional funds will be needed for completion of the project, the agency may resubmit the previous Exhibit A in lieu of a new Exhibit 1 for that project, provided that the project numbers are indicated on the Exhibit A's.

(3) In those cases where an agency has a large number of projects and revision of its Exhibit A's before June 30, 1970, would be an undue hardship, application may be made to the Bureau of the Budget for an extension of time for such revision. In such cases, the previous Exhibit A's would be submitted in lieu of new Exhibit 1's on June 30, 1970, with the appropriate project numbers indicated on the previous Exhibit A's.

b. After June 30, 1970, Exhibit 1 will be required only for new pollution control projects or to indicate a major change in the information provided on a previous Exhibit. These revised or new Exhibit 1's will be submitted quarterly. As a general rule, projects which an agency plans to undertake in a particular fiscal year must be submitted on an Exhibit 1 no later than 12 months prior to the start of that fiscal year.

c. Pollution control projects at the same facility which are required for distinct and separate purposes will be considered as separate projects. Such separate projects may be reported on the same Exhibit 1 only if each is clearly identified (e.g., "a," "b," and "c") and if all questions are fully answered for each project. Such separate projects will be reported individually on Exhibit 2 using appropriate project numbers (e.g., "8a," "8b," and "8c").

d. The notification required by section 5(c) of the Order as to the performance specifications proposed for each existing facility should be given under item 6 in Exhibit 1 unless alternative arrangements are agreed to by the Secretary. An entry under item 6 is not necessary if the performance specification is identical to an emission standard noted in item 5.

e. Item 9 of Exhibit 1 should include information not shown elsewhere on the Exhibit which is necessary for the evaluation of the project. For instance, where the agency knows of changing circumstances which will affect the practicability of undertaking pollution abatement at a particular facility (e.g., expected closure of the facility, projected renovation, or a change in mission of the facility which would alter abatement needs), these should be indicated. Projects involving such circumstances should be included on Exhibit 2 with a reference to the explanation given on Exhibit 1.

2. Exhibit 2, "Status Report."

a. Exhibit 2 will indicate the estimated or actual "costs" for all projects in the agency plan and the current status of the projects. Design costs need not be included for individual projects if they are not normally reflected in appropriations for individual projects.

b. Each Exhibit 2 will consist of two sections. Section A (COMPLETED PROJECTS) will contain all projects in the agency plan which have been completed plus those projects which have been discontinued. Section B (ACTIVE PROJECTS) will contain all other projects. Both Sections A and B of Exhibit 2 should be submitted on June 30, 1970, and on each June 30 thereafter. Section B should be updated and submitted quarterly on September 30, December 31, and March 31. These quarterly submissions should include all of the projects in Section B of the previous June 30 report and may be a "marked-up" copy of the June 30 report. Agencies may request to be relieved of this quarterly reporting requirement with regard to minor projects or when changes in the projects would be insignificant. Completed or discontinued projects should be transferred from Section B to Section A in the June 30 submission each year.

c. No later than 15 days after the President approves the Act containing the applicable appropriation, the agency will submit a marked-up copy of its latest Section B submission indicating the effect of congressional appropriation action on the status of its projects. This latter report will not be required if the next quarterly revision is due no more than 30 days after the President's action.

d. Each revision of Exhibit 2 will show the latest information as of 60 days prior to the quarterly reporting date. Unless the change is otherwise evident, an asterisk will be placed in the margin to indicate which project entries have been changed in the revision.

e. Exhibit 2 will indicate the amount included or to be included in the President's budget and, in parentheses, the amount actually appropriated or funded when relevant. With regard to any fiscal year for which the President's budget has already been submitted, only projects which have actually been included in that budget or funded may be listed under that fiscal year. Agency totals should be shown at the bottom of the Exhibit.

f. Special care should be taken in filling out the "Status" column on Exhibit 2 so as to give all relevant information indicated below. It is requested that the agency use the following format:

Indicate "PP _____" if the project is in the preliminary planning stage. The blank provided should contain the estimated completion date for construction.

Indicate "DES _____" if the project is under design or has been designed, but is not under construction. The blank provided should contain the estimated completion date for construction.

Indicate "CONSTR _____" if the project is under construction. The blank provided should contain the estimated completion date.

Indicate "COMPL _____" if the project has been completed. The blank provided should contain the actual completion date.

Indicate "DISC" if the project has been discontinued or dropped. Reasons should be given.

Indicate "DEFER _____" if the project has been deferred or significantly delayed. The blank provided should contain the estimated date of completion of construction. Reasons should be given.

Indicate "OTHER" if other than the above circumstances apply. An explanation should be given.

When the project has been deferred or otherwise significantly delayed, the agency should also indicate what corrective action is to be taken by the agency, if any.

g. Exhibit 2 should be a consolidated version, summarizing the air pollution control projects for all of the regions and divisions of the reporting agency.

h. For the submission of June 30, 1970, full explanations should be given in the "Status" column for any project planned for FY 1973 or later rather than for FY 1972.

i. When projects have been discontinued in favor of use of non-Federal facilities to dispose of wastes (e.g., a city's landfill), the agency should so indicate in the "Status" column of Exhibit 2. A revised Exhibit 1 should also be submitted which includes a description of the method by which the wastes will be disposed and an assessment of the pollution characteristics of the method used.

ATTACHMENT B
Circular No. A-78
Revised

Title 42--PUBLIC HEALTH

Chapter I--Public Health Service, Department of Health, Education, and Welfare

Subchapter F--Quarantine, Inspection, and Licensing

Part 76--Prevention, Control, and Abatement of Air Pollution from Federal Government Activities: Performance Standards and Techniques of Measurement

Sec.
76.1 Definitions.
76.2 Intent.
76.3 Applicability.
76.4 Combustion of fuel.
76.5 Sulfur oxides.
76.6 Stacks.
76.7 Storage and handling of fuels and ash.
76.8 Disposal of refuse.
76.9 Other pollution producing processes.

Authority: The provisions of this Part 76 issued under section 5 of Executive Order 11282; 3 CFR, 1966 comp.

Source: The provisions of this Part 76 appear at 31 F.R. 7902, June 3, 1966, unless otherwise noted.

Sec. 76.1 Definitions.

As used in this part:

(a) "Executive Order" means Executive Order No. 11282.

(b) "Nonurban areas" means all areas other than urban areas.

(c) "Ringelmann Scale" means the Ringelmann Scale as published in the latest U.S. Bureau of Mines Information Circular entitled "Ringelmann Smoke Chart".

(d) "Secretary" means the Secretary of Health, Education, and Welfare.

(e) "Smoke Inspection Guide" means the U.S. Public Health Service Smoke Inspection Guide described in Part 75 of this title.

(f) "Urban areas" means those areas classified as urban in the latest available Federal census, or as Standard Metropolitan Statistical Areas by the Bureau of the Budget.

(g) "Unit" means all indirect heat exchangers connected to a single stack.

(h) "Particulate matter" means any material, except uncombined water, that exists as a solid or liquid at standard conditions.

(i) "Standard conditions" means a temperature of 70° Fahrenheit and a pressure of 14.7 pounds per square inch, absolute.

(j) "Waste" means any solid, liquid, or gaseous substance, the disposal of which may create an air pollution problem.

[31 F.R. 7902, June 3, 1966, as amended at 34 F.R. 11419, July 10, 1969]

Sec. 76.2 Intent.

It is the intent of these standards that emissions to the atmosphere from Federal facilities and buildings shall not be permitted if such emissions endanger health or welfare and that emissions which are likely to be injurious or hazardous to people, animals, vegetation, or property shall be minimized.

Sec. 76.3 Applicability

(a) Unless otherwise indicated, the standards in this part apply to both new and existing Federal facilities and buildings. These standards are effective upon publication in the Federal Register, except for those facilities and buildings which are likely to require installation of improvements under the plan to be submitted in accordance with section 3 of the Executive Order.

(b) Except for discharges of radioactive effluents which are regulated by the Atomic Energy Commission, Federal facilities and buildings shall conform to the air pollution standards prescribed by the State or community in which they are located. If State or local standards are not prescribed for a particular location, or if the State or local standards are less stringent than the standards prescribed herein, the standards in this part shall be applicable to discharges from such Federal facilities and buildings except as otherwise indicated.

(c) Temporary operations that may result in potential air pollution problems, such as those associated with research, development, test, evaluation, space, and military activities, shall be conducted with such precautions and safeguards as are needed to achieve the intent of these standards.

(d) The Secretary may, upon application of the relevant department, agency or establishment, exempt any Federal facility or building from the objectives contained in section 4 of the Executive order and from anv or all of these standards whenever he determines that the activities of such building or facility will not significantly conflict with the intent of the Executive order and that such an exemption is in the public interest.

Sec. 76.4 Combustion of fuel.

(a) The following standards apply to the combustion units of facilities and buildings having a heat input of less than 1,000 million B.t.u./hour, other than fireplaces, stoves, or grills burning wood or charcoal:

(1) Manually fired equipment shall not be installed as new or replacement equipment, except for the burning of anthracite, coke, or smokeless fuel.

(2) (i) For new units, except during startup, cleaning of fires, or soot blowing, the density of any emission to the atmosphere shall not exceed No. 1 on the Ringelmann Scale or the Smoke Inspection Guide.

(ii) For existing units, except during startup, cleaning of fires, or soot blowing, the density of any emission to the atmosphere shall not exceed No. 2 on the Ringelmann Scale or Smoke Inspection Guide.

(3) A photoelectric or other type smoke detector, recorder, or alarm shall be installed on units larger than ten million BTU per hour input, except where gas or light oil (No. 2 or lighter) is burned.

(4) During routine operation, the emission of particles larger than 60 microns shall not normally occur.

(5) Means shall be provided in all newly constructed units and wherever practicable in existing units to allow the periodic measurement of flyash and other particulate matter.

(6) All new or replacement spreader stoker installations shall be of a type that automatically discharges ashes to the ash pit either continuously or in very frequent small increments, and flyash shall be reinjected only from boiler passes.

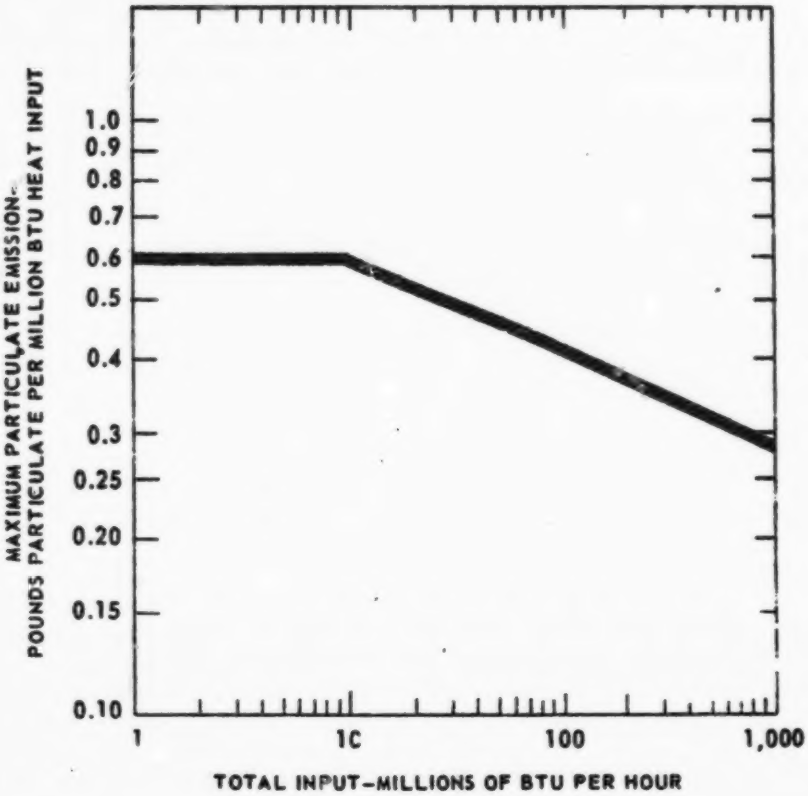
(7) For units of less than 10 million BTU/hour heat input, the emission of flyash and other particulate matter shall not exceed 0.6 pounds of particulate matter per million BTU heat input, as measured by the American Society of Mechanical Engineers Power Test Code No. 27 for "Determining Dust Concentrations in a Gas Stream," or equivalent test method.

(8) For units between 10 million and 1,000 million BTU/hour heat input, the emission of flyash and other particulate matter shall not exceed that specified in figure 1, as measured by the test method specified in subparagraph (7) of this paragraph. Existing units shall meet this standard within the time designated by the plan submitted in accordance with section 3 of the Executive order except that with respect to existing spreader stoker units the plan may specify certain units which may emit particulate matter at an interim rate not exceeding 0.6 lbs/million BTU heat input.

(b) For units having a heat input of more than 1,000 million BTU/hour, the appropriate department, agency, or establishment shall seek special advice from the Secretary with regard to smoke, flyash, and other particulate emissions.

FIGURE 1

MAXIMUM EMISSION OF PARTICULATE MATTER FROM FUEL BURNING INSTALLATIONS



Sec. 76.5 Sulfur oxides.

(a) Combustion units of facilities or buildings not located in areas specified by the Secretary under paragraph (c) of this section and whose heat input is less than 1,000 million BTU/hour shall burn the lowest sulfur content fuel that is reasonably available. In determining reasonable availability, the factors to be considered include, among others, price, firmness of supply, extent of existing pollution, and assurance of supply under adverse weather and natural disaster conditions.

(b) For combustion units or Federal facilities or buildings not located in areas specified by the Secretary under paragraph (c) of this section and whose heat input is more than 1,000 million BTU/hour, the appropriate department, agency, or establishment shall seek special advice from the Secretary with regard to sulfur-oxide emissions.

(c) (1) Effective October 1, 1969, combustion units of all Federal facilities or buildings located in the following areas shall comply with applicable emission limitations and control measures set out below:

(i) In the New Jersey-New York-Connecticut Interstate Air Quality Control Region as defined by 42 CFR Part 81, the emission rate of sulfur oxides (calculated as sulfur dioxide) from fuels used in combustion units shall not exceed 0.35 pounds per million B.t.u. (gross value) heat input.

(ii) In the Metropolitan Chicago Interstate Air Quality Control Region (Indiana-Illinois) and in the Metropolitan Philadelphia Interstate Air Quality Control Region (Pennsylvania-New Jersey-Delaware) as defined in 42 CFR Part 81, the emission rate of sulfur oxides (calculated as sulfur dioxide) from fuels used in combustion units shall not exceed 0.65 pounds per million B.t.u. (gross value) heat input.

(2) If compliance with the above emission standard is to be accomplished by means of controlled fuel quality, the agency responsible for each Federal facility in the designated areas shall establish appropriate fuel specifications to insure that the above emission limitations are met and shall provide for adequate tests to ascertain that delivered fuel meets the applicable specifications. If removal of sulfur oxides from flue gases is used to control emissions, the facility shall provide for continuous monitoring and recording of the sulfur oxide content of flue gases emitted. The sulfur content of fuels shall be determined in accordance with current recognized testing procedures of the American Society for Testing and Materials. The sulfur content of the flue gases shall be determined in accordance with current recognized testing procedures of the American Society of Mechanical Engineers.

(3) The limitations and measures established in subparagraph (1) of this paragraph shall be revised or amended only after consultation with appropriate Federal, State, and local officials and affected parties.

Not less than 30 days prior to prescribing such revised or amended limits or measures, the Secretary will publish in the Federal Register notice of his intention to adopt such limits or measures, and will thereafter publish in the Federal Register the limits or measures established. The Secretary may at any time designate other urban areas which suffer from extremely high air pollution levels, and after similar consultation, and publication in the Federal Register, prescribe such limits or measures as he determines are necessary to carry out the intent of Executive Order 11282.

(d) The emission of the oxides of sulfur the atmosphere shall be monitored at regular intervals by determining the sulfur content of the fuel used or by determining the sulfur content of flue gases.

[31 F.R. 7902, June 3, 1966, as amended at 32 F.R. 4415, March 23, 1967; 34 F.R. 11419, July 10, 1969]

Sec. 76.6 Stacks.

For buildings or facilities in nonurbanized areas, the particle emission standards of section 76.4(a) (7) and (8) may be revised for an individual installation by an amount to be determined by the Secretary, when:

(a) The stack height exceeds by 2-1/2 times the height of the highest building in that area, and

(b) The pollution level in any area will not be significantly increased thereby.

For large plants the determination of chimney height shall be based on air quality criteria, land use, and meteorological, topographical, aesthetic, and operating factors.

Sec. 76.7 Storage and handling of fuels and ash.

(a) Solid fuels and ash shall be stored and handled so as not to release to the atmosphere dust in significant quantities.

(b) In quantities of 40,000 gallons or more, gasoline or any volatile petroleum distillate or organic liquid having a vapor pressure of 1.5 p.s.i.a. or greater under actual storage conditions shall be stored in pressure tanks or reservoirs or shall be stored in containers equipped with a floating roof or vapor recovery system or other vapor emission control device.

(c) Stationary gasoline storage tanks with a capacity of 250 gallons or more shall be equipped with either submerged filling inlets or with vapor recovery or emission control systems such that loss of vapor to the atmosphere during filling operations shall be minimized.

(d) Gasoline or petroleum distillate tank car or tank truck loading facilities handling 20,000 gallons per day or more shall be equipped with submersible filling arms or other vapor emission control systems.

Sec. 76.8 Disposal of waste.

(a) (1) Waste shall not be burned in open fires in urban areas.

(2) In nonurban areas, there shall not be burned in open fires, within a 24-hour period, more than 25 pounds of waste at a single site nor more than 500 pounds of waste at any number of sites within a 1-mile radius, except that these quantities may be exceeded in the case of on-site burning of waste produced in connection with operations performed at railroad rights-of-way, interurban highways, irrigation canals, forests, agricultural sites, etc., and provided that care is exercised to prevent creation of localized air pollution which endangers health or welfare. Deteriorated or unused explosives, munitions, rocket propellants, and certain hazardous wastes may be burned in open fires, in accordance with recognized procedures.

(3) Wastes shall not be left in open dumps.

(4) Wastes that are disposed of in sanitary landfills shall be disposed of in accordance with procedures described in "Sanitary Landfill Facts" (PHS publication No. 1792, 1968) and any amendments or revisions thereof. Said document is available to any interested person, whether or not affected by the provisions of this part, upon request to the National Air Pollution Control Administration, Arlington, Va. 22203, which maintains an official historic file of the document, or to the Public Health Service Information Center as listed in 45 CFR 5.31 (32 F.R. 9316).

(b) (1) Waste shall be burned only in facilities especially designed for that purpose, except as provided in paragraph (a) of this section.

(2) For incinerators acquired on or after June 3, 1966, the density of any emission to the atmosphere shall not exceed number 1 on the Ringelmann Scale or the Smoke Inspection Guide for a period or periods aggregating more than 3 minutes in any 1 hour, or be of such opacity as to obscure an observer's view to an equivalent degree.

(3) For incinerators acquired prior to June 3, 1966, the density of any emission to the atmosphere shall not exceed number 2 on the Ringelmann Scale or the Smoke Inspection Guide for a period or periods aggregating more than 3 minutes in any 1 hour, or be of such opacity as to obscure an observer's view to an equivalent degree.

(c) (1) In addition, for installations burning more than 200 pounds of wastes per hour, emissions shall not exceed 0.2 grain of particulate matter per standard cubic foot of dry flue gas corrected to 12 percent carbon dioxide (without the contribution of carbon dioxide from auxiliary fuel), measured in accordance with the test procedures described in "Specifications for Incinerator Testing at Federal Facilities" (PHS publication, October, 1967) and any amendments or revisions thereof. Said document is available to any interested person, whether or not affected by the provisions of this part, upon request to the National Air Pollution Control Administration, Arlington, Va. 22203, which maintains an official historic file of the document, or to the Public Health Service Information Center or Regional Office Information Center as listed in 45 CFR 5.31 (32 F.R. 9316).

(2) For installations burning 200 pounds of waste per hour or less, emissions shall not exceed 0.3 grain of particulate matter per standard cubic foot of dry flue gas corrected to 12 percent carbon dioxide (without the contribution of carbon dioxide from auxiliary fuel), measured in accordance with the test specifications described in "Specifications for Incinerator Testing at Federal Facilities" (PHS publication, October 1967) and any amendments or revisions thereof.

(3) Test procedures which are approved by the Commissioner, National Air Pollution Control Administration, as equivalent to those prescribed by paragraphs (c)(1) and (c)(2) of this section may be used for the purpose of determining an installation's compliance with the emission standards for particulate matter contained in such paragraphs.

[34 F.R. 11419, July 10, 1969]

Sec. 76.9 Other pollution producing processes.

For dusts, fumes, or gases from any process not heretofore described, except for discharges of radioactive effluents regulated by the Atomic Energy Commission, whatever measures may be necessary to comply with the intent of these regulations shall be applied. This will generally require the installation of equipment or devices to minimize such emissions to the point where they will meet the standards contained in these regulations. For processes which emit toxic substances in quantities which might endanger health or welfare and for fires which emit smoke or fumes at official firefighting schools, the appropriate department, agency, or establishment shall seek special advice from the Secretary.

(Note: The Department of Health, Education, and Welfare will, from time to time, and after consultation with industries concerned, issue "Guides of Good Practice" for specific operations to aid Federal departments, agencies, and establishments in the selection of equipment and methods for meeting the performance standards. For emissions not covered herein, or for which there have been issued no applicable "Guides of Good Practice," the Department of Health, Education, and Welfare will provide technical material and consultation to departments, agencies, and establishments requesting such assistance. Requests for "Guides of Good Practice," technical material, or consultation should be directed either to the Federal Facilities Section, Abatement Branch, Division of Air Pollution, Public Health Service, Department of Health, Education, and Welfare, Washington, D.C. 20201, or to the appropriate Regional Air Pollution Program Director of the Public Health Service located in the Department of Health, Education, and Welfare Regional Offices.)

EXHIBIT 1
Circular No. A-78
Revised

AIR POLLUTION
PROPOSED PROJECT REPORT

AGENCY: Department of Government

Project No.: 101
Date prepared: 6-30-69
Date revised: 6-30-70

1. Facility — GSA Inventory Control No.: 20201

   Name: Regional Laboratory
   Address: Boston, Suffolk, Massachusetts
   (City, county, State)

2. Source of pollution, type(s) of pollution, and amount(s)

   Power plant, particulate matter from combustion of coal, 2 lb./10^6 BTU.

3. Description of existing control being provided

   Mechanical collectors

4. Proposed remedial measures

   Convert boilers from coal to gas

5. Proposed measures are necessary to meet

   a. Air Quality standards and implementation plans
      (1) State ____________
      (2) Region ____________
      (3) Actual standard or exact citation ____________

   b. Secretary's regulations: 42 CFR section 76.4a(8)

   c. Other (explain):

6. Performance specification (if different from item 5 above)

   Same

7. Costs of pollution control measures (in thousands of dollars)
   Total costs: $100 for conversion
   Cost by fiscal years and appropriation account:
   1970: $10 for design--Design account
   1970: $90 for construction--O&M account

8. Estimated additional operating and maintenance costs, if available

   None. Savings expected.

9. Other relevant information

EXHIBIT 2
Circular No. A-78
Revised

AIR POLLUTION STATUS REPORT

AGENCY: Department of Government

Page 1 of 1
Quarterly Reporting Date: June 30, 1970

Agency contact: Roger L. Smith
Telephone: 395-9019

Proj No.	Project Name and Location	Project Costs ($1,000's) Amt in President's Budget or Agency Plan (and amount appropriated or funded)							Present Cost Est	Status
	SECTION A (Completed Projects)	1968	1969	1970	1971	1972	1973	post 1973		
3	Office Building #7, Portland, Me.		112 (100)						100	COMPL 10-69
2	Training School, Boonton, N.J.		58 (0)	58 (58)#					0	DISC. Project dropped due to closing of school in FY 1971.
	Total, Sect. A		170 (100)	58 (58)					100	
	SECTION B (Active Projects)									
1	District Office, Buffalo, N.Y.			80 (80)					105	DEFER 9-71. Cost increase, additional funds now being reprogrammed to project.
4a	Research Laboratory, Cleveland, Ohio (incinerator)				27				27	PP 7-71.
4b	Research Laboratory, Cleveland, Ohio (heating plant)					85			85	
5	Firefighting school, Boston, Mass.						500		500	Not scheduled for 1972 because technology still being tested at San Francisco facility.
6	Smelting plant, Houston, Tex.							1,000	1,000	OTHER. Appropriate technology under study for this special problem. Extension request pending at BOB.
	Total, Sect. B			80 (80)	27	85	500	1,000	1,717	

#Funds not used.

EXHIBIT 3
Circular No. A-78
Revised

AIR POLLUTION
REPORT ON ADDITIONAL ABATEMENT ACTIVITIES

AGENCY: Department of Government

Date submitted: 6-30-70

Agency contact: Roger L. Smith
Telephone: 395-9010

1. Type of actions taken or planned

   a. Purchased 1% sulfur fuel for 1969 heating season for all installations in Boston and Atlanta.
   b. Discontinued open burning at 15 disposal areas, fall 1969.
   c. Plan to expand purchasing of 1% sulfur fuel for 1970 heating season to Norfolk and Providence.
   d. Plan to extend sanitary landfill operations by August 1970 to 15 disposal areas in "b" above, using existing equipment.

2. Approximate costs (in thousands of dollars)

   a. $875 in premiums.
   b. None.
   c. $500 in premiums.
   d. $40 in labor and use of equipment.

3. Will costs recur annually?

   a. Yes, although premium may decrease.
   b. ---
   c. Yes, although premium may decrease.
   d. Yes.

EXECUTIVE OFFICE OF THE PRESIDENT

BUREAU OF THE BUDGET
WASHINGTON, D.C 20503

May 18, 1970

CIRCULAR NO. A-81
Revised

TO THE HEADS OF EXECUTIVE DEPARTMENTS AND ESTABLISHMENTS

SUBJECT: Reporting requirements in connection with the prevention, control, and abatement of water pollution at existing Federal facilities

1. Purpose. This Circular provides procedures to be followed by Federal agencies in carrying out the water pollution control provisions of section 5, pertaining to existing Federal facilities, and related aspects of Executive Order No. 11507 of February 4, 1970, entitled "Prevention, Control, and Abatement of Air and Water Pollution at Federal Facilities," hereinafter referred to as the Order. This Circular supersedes and replaces Bureau of the Budget Circular No. A-81 dated March 30, 1967.

2. Definitions. As used in this Circular:

a. The term "Secretary" means the Secretary of the Interior or his designee.

b. The term "agencies" means the departments, agencies, and establishments of the executive branch.

c. The term "facilities" means the buildings, installations, structures, public works, equipment, vessels, and other property, owned by or constructed or manufactured for the purpose of leasing to the Federal Government in the United States.

d. The term "water quality standards" means the water quality standards and related plans of implementation which have been adopted by each of the States and approved by the Secretary pursuant to the Federal Water Pollution Control Act, as amended (33 U.S.C. 466).

e. The term "performance specifications" means permissible limits of discharges or other related values applicable to the water pollution control measures at a particular Federal facility that would, as a minimum, provide for conformance with the water quality standards or other applicable standards as defined in paragraph 5(a) of this Circular. Specifically, for water pollution control measures, performance specifications are "wastewater effluent standards," and permissible limits pertain to the rate of flow and concentration of pertinent pollutants.

f. Unless otherwise indicated, the term "cost" means the amount (budget authority) required for putting in place the necessary water pollution control measures. These costs include the capital costs of structures and equipment, irrespective of the appropriation chargeable, but not the annual maintenance and operating costs.

g. The term "United States" means the fifty states, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, and Guam.

3. Agency responsibilities. Pursuant to their responsibilities under the Order, Federal agencies should:

a. Seek the assistance of the Secretary at the earliest feasible time when necessary to determine the standards applicable to particular facilities and the appropriate implementation schedules specified by the Order.

b. Provide the Secretary with such data and information as he may need to evaluate the water pollution control aspects of proposals submitted pursuant to this Circular, the implementation of these plans, and existing and potential water pollution control problems.

c. Cooperate with State and local pollution control agencies and with other Federal agencies in the evaluation of their pollution control needs and, if appropriate, in the provision or installation of joint or regional pollution control measures.

4. Communications with the Secretary. Communications with the Secretary in connection with this Circular should be directed to the Federal Water Quality Administration, Attention: Federal Activities Branch, Washington, D. C. 20242, or with the appropriate Regional Director of that Administration. Regional boundaries and addresses of the Regional Directors are indicated on Attachment B.

5. Applicable standards.

a. As provided in sections 4(a)(1) and 5(a) of the Order, existing Federal facilities are to meet the requirements of the "water quality standards," as defined in paragraph 2(d) of this

Circular, or in the absence of such standards, to meet similar standards promulgated through regulations of the Secretary pursuant to section 4(o) of the Order.

b. The quality standards adopted pursuant to section 4(b) of the Order will be the applicable standards for the purposes of this Circular for any Federal facilities which are not specifically covered by the "water quality standards" referenced above. However, in those cases involving intrastate waters for which State standards acceptable to the Secretary are in force, the State standards may be recognized by the Secretary as the requirements applicable to Federal facilities for the purposes of this Circular.

6. Agency plan - general provisions.

a. Requirement. The fiscal plan for improvements at existing facilities required previously by Circular No. A-81 will be updated and submitted by June 30, 1970, and thereafter as prescribed herein. This updated agency plan will provide for compliance by existing facilities with the applicable standards and the deadlines specified by the Order. Agencies which did not submit a report previously but which have facilities requiring correction under the Order should submit a plan in the format shown in Exhibits 1 and 2.

b. Coverage. The agency plan should include all projects involving "costs," as defined in paragraph 2(f) of this Circular, which are necessary to bring existing facilities into compliance with applicable standards. The agency plan should also include all completed or discontinued projects listed in earlier plans.

c. General format. The information required for the agency plan will be submitted in the form of Exhibits 1 and 2. Pertinent details for each individual project are given on Exhibit 1. Exhibit 2 is a summary and status report of the agency plan for water pollution abatement at existing facilities. Exhibit 2 is to be on legal size paper, measuring 13 or 14 inches in the longest dimension. Reports may be submitted in the form of computer printouts only upon specific approval of the Bureau of the Budget.

d. Preparation and submission of Exhibits. Specific details for the preparation and submission of Exhibits 1 and 2 are given in Attachment A. In general, a complete set of Exhibits is due by June 30, 1970. Thereafter, Exhibit 2 is to be updated and submitted quarterly, and Exhibit 1 is to be submitted only for new projects or for major revisions of prior submissions. For each submission, two copies are to be sent to the Bureau of the Budget and six copies are to be sent to the Federal Water Quality Administration.

e. Project numbers. Agencies will assign consecutive numbers, beginning with "1," to all water pollution control projects, including those in the plan submitted on July 1, 1966, and in subsequent revisions of the plan. Project numbers are for permanent identification and may not be reassigned to new projects.

f. Phasing of projects. Insofar as possible, all projects that were not included in the FY 1971 budget or funded in prior years and that are necessary to meet the "water quality standards" as defined herein, that were in force as of the date of the Order, should be prepared for possible inclusion in the FY 1972 budget. Any remaining or new projects necessary to meet these standards should be prepared for possible inclusion in the FY 1973 budget. In addition, all projects necessary to meet any of the applicable standards described in paragraph 5(a) of this Circular that are established after February 4, 1970, should be prepared for possible inclusion in the FY 1972 or subsequent budgets at the earliest practicable time. In cases where the use of municipal or regional systems are under consideration, it should be indicated: (1) whether negotiations to determine cost-sharing and a schedule for installation of pollution control facilities are involved; and (2) if alternate means, such as agency-installed pollution control facilities, are also under consideration.

7. Types of facilities covered.

a. Facilities which have not been constructed, manufactured, or contracted for, but for which design or other work predating the Order has advanced to a stage at which it would be impractical to carry out the provisions of section 6 of the Order ("Procedures for new Federal facilities"), may be considered the same as "existing facilities" for the purposes of this Circular.

b. The Order and this Circular cover facilities which are constructed or manufactured for lease to the Federal Government, as well as those which are owned by the Federal Government. "Lease-construction" is an example of a type of facility covered under this provision, but facilities used under ordinary leases are not covered. Lease-construction facilities should be conspicuously identified on Exhibits 1 and 2. Exhibit 1 should include a brief discussion of the lease arrangements that would affect the possibility and practicality of installing abatement measures for such facilities.

c. Existing Federal facilities that discharge waste waters to municipal or regional sewage collection systems need not be reported in the agency plan under this Circular unless it is

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known, or there is reason to believe, that practices are involved which violate, or are likely to violate, any applicable water quality standards or related water quality management plan. Projects for such facilities should be included in the agency plan, however, if pretreatment, sewers, lift stations or other such measures that would qualify under this Circular are required for connection and discharge to the municipal or regional systems.

d. Federal facilities that use septic tanks, pit privies and similar devices exclusively, and which do not involve: (1) the discharge or seepage of wastes onto property other than that of the agency involved, or (2) the violation of any applicable standards, as defined in paragraph 5(a) of this Circular, are not covered by this Circular.

e. In general, facilities or operations thereof that are of a type not covered by the applicable standards, defined in paragraph 5(a) of this Circular, are not covered by this Circular.

f. If there is any question as to whether other types of facilities are covered by this Circular, agencies should consult with the Bureau of the Budget.

8. Extensions of time. Requests for delaying required remedial measures beyond the dates specified by section 5(a) of the Order should be transmitted to the Bureau of the Budget no later than June 30, 1970, unless compelling circumstances would require such action at a later date. Such requests should be separate from the information provided on the Exhibits submitted for the agency plan. The agency should also submit an Exhibit 1 in such instances indicating the proposed plan for installing remedial measures and the justifying circumstances for the delay as required by section 5(d) of the Order.

9. Review. The Secretary will assist in evaluating the water pollution control aspects of projects submitted under this Circular. He will provide periodic appraisals of the operation and performance of such measures, as well as of other Government-related water pollution control needs and related costs.

10. Similarity with Circular No. A-78. This Circular is very similar or identical to Circular No. A-78 (air pollution), dated May 1970, except for paragraphs 5(a), 5(b), 6(d), 6(f) and 7(c-f). Attachment A is also similar, except for paragraph 1(d). Exhibit 1 is designed to meet the requirements of water pollution control projects and, thus, differs in many respects

from Exhibit 1 of Circular No. A-78. Exhibit 2 is identical to Exhibit 2 of Circular No. A-78. Submission requirements for Exhibit 1 and for Exhibit 2 are also identical for both Circulars.

11. Inquiries. Questions regarding the implementation of this Circular should be addressed to the Natural Resources Programs Division, Bureau of the Budget, Washington, D. C. 20503.

ROBERT P. MAYO
Director

Attachments

ATTACHMENT A
Circular No. A-81
Revised

INSTRUCTIONS FOR THE PREPARATION AND SUBMISSION OF EXHIBITS

1. Exhibit 1, "Proposed Project Report."

a. An Exhibit 1 will be submitted by June 30, 1970, for each pollution control project included in the agency plan, with the following exceptions:

(1) In those cases where the agency has already submitted an Exhibit A for a particular project under the previous edition of this Circular and funds have already been appropriated by Congress or are expected to be appropriated for FY 1971, and there is no indication that additional funds will be needed for completion of the project, the agency may resubmit the Exhibit A in lieu of an Exhibit 1 for that project, provided that the appropriate project number is indicated on the Exhibit A.

(2) In those cases where an agency has a large number of projects and revision of its Exhibit A's before June 30, 1970, would be an undue hardship, application may be made to the Bureau of the Budget for an extension of time for such revision. In such cases, the Exhibit A's would be submitted in lieu of Exhibit 1's on June 30, 1970, with the appropriate project numbers indicated on the Exhibit A's.

b. After June 30, 1970, Exhibit 1 will be required only for new pollution control projects or to indicate a major change in the information provided on a previous Exhibit. These revised or new Exhibit 1's will be submitted quarterly. As a general rule, projects which an agency plans to undertake in a particular fiscal year must be submitted on an Exhibit 1 no later than 12 months prior to the start of that fiscal year.

c. Pollution control projects at the same facility which are required for distinct and separate purposes will be considered as separate projects. Such separate projects may be reported on the same Exhibit 1 only if each is clearly identified (e.g., "a," "b," and "c") and if all questions are fully answered for each project. Such separate projects will be reported individually on Exhibit 2 using appropriate project numbers (e.g., "8a," "8b," and "8c").

d. Agencies are requested to provide information for item 6 of Exhibit 1 in sufficient detail to satisfy the notification requirements of section 5(c) of the Order as to the performance specifications proposed for water pollution control measures for existing facilities, unless other arrangements are made with the Secretary for such notification.

e. Item 11 of Exhibit 1 should include information not shown elsewhere on the Exhibit which is necessary for the evaluation of the project. For instance, where the agency knows of changing circumstances which will affect the practicability of undertaking pollution abatement at a particular facility (e.g., expected closure of the facility, projected renovation, or a change in mission of the facility which would alter abatement needs), these should be indicated. Projects involving such circumstances should be included on Exhibit 2 with a reference to the explanation given on Exhibit 1.

2. Exhibit 2, "Status Report."

a. Exhibit 2 will indicate the estimated or actual "costs" for all projects in the agency plan and the current status of the projects. Design costs need not be included for individual projects if they are not normally reflected in appropriations for individual projects.

b. Exhibit 2 will consist of two sections. Section A (COMPLETED PROJECTS) will contain all projects in the agency plan which have been completed plus those projects which have been discontinued. Section B (ACTIVE PROJECTS) will contain all other projects. Both Sections A and B of Exhibit 2 should be submitted on June 30, 1970, and on each June 30 thereafter. Section B should be updated and submitted quarterly on September 30, December 31 and March 31. These quarterly submissions should include all of the projects in Section B of the previous June 30 report, and may be a "marked-up" copy of the June 30 report. Agencies may request to be relieved of this quarterly reporting requirement with regard to minor projects or when changes in the projects would be insignificant. Completed or discontinued projects should be transferred from Section B to Section A in the June 30 submission each year.

c. No later than 15 days after the President approves the act containing the applicable appropriation, the agency will submit a marked-up copy of its latest Section B submission indicating the effect of congressional appropriation action on the status of its projects. This latter report will not be required if the next quarterly revision is due no more than 30 days after the President's action.

d. Each revision of Exhibit 2 will show the latest information as of 60 days prior to the quarterly reporting date. Unless the change is otherwise evident, an asterisk will be placed in the margin to indicate which project entries have been changed in the revision.

e. Exhibit 2 will indicate the amount included or proposed to be included in the President's budget for each project and, in parentheses, the amount actually appropriated or funded when relevant. With regard to any fiscal year for which the President's budget has already been submitted, only projects which have actually been included in that budget or funded may be listed under that fiscal year. Agency totals should be shown at the bottom of the Exhibit.

f. Special care should be taken in filling out the "Status" column on Exhibit 2 so as to give all relevant information indicated below. It is requested that the agency use the following format:

Indicate "PP_____" if the project is in the preliminary planning stage. The blank provided should contain the estimated completion date for construction.

Indicate "DES_____" if the project is under design or has been designed, but is not under construction. The blank provided should contain the estimated completion date for construction.

Indicate "CONSTR_____" if the project is under construction. The blank provided should contain the estimated completion date.

Indicate "COMPL_____" if the project has been completed. The blank provided should contain the actual completion date.

Indicate "DISC" if the project has been discontinued or dropped. Reasons should be given.

Indicate "DEFER_____" if the project has been deferred or significantly delayed. The blank provided should contain the estimated date of completion of construction. Reasons should be given.

Indicate "OTHER" if other than the above circumstances apply. An explanation should be given.

When the project has been deferred or otherwise significantly delayed, the agency should also indicate what corrective action is to be taken by the agency, if any.

g. Exhibit 2 should be a consolidated version, summarizing the water pollution control projects for all of the regions and divisions of the reporting agency.

Attachments

EXHIBIT 1
Circular No. A-81
Revised

WATER POLLUTION CONTROL
PROPOSED PROJECT REPORT

AGENCY: (Department of Government)
(Bureau)

Project No. 003
Date Prepared: 5/1/67
Date Revised: 5/10/70

GSA Inventory Control No. 20519

1. Facility.

Name: Fort Smith
Address: (City, County, State) Bloomville, Smith County, New York

2. Type, source and location of polluting discharge. (Include name of stream or lake, if appropriate.)

(a) Domestic sewage effluent from two primary treatment plants in Main Post area discharge into Sudsey River below raw water intake to water treatment plant.
(b) Back-wash water from water filtration plant discharges into Sudsey River through storm sewer system.

3. Existing treatment and other control measures. (Include design capacity in mgd.)

(a) Primary treatment plants consist of comminutor, primary settling tanks, and sludge digester. Design capacity is 1.8mgd.
(b) No treatment.

4. Waste flow generated and treated (mgd).

		generated	treated
Sewage wastes:	(a)	1.35	1.35
	(b)	.017	none
Industrial wastes:			

5. Effectiveness of existing treatment and control.

pertinent sewage and industrial pollutants	influent (ppm, lbs)	effluent (ppm, lbs)	% removal
BOD:			(a) 40%
Suspended solids:			(a) 40%

(If above is not applicable or values are not known, describe effectiveness)

6. Remedial measures proposed and estimated effectiveness in correcting pollution problem. (Indicate as proposed "performance specifications")

   (a) Install an activated sludge treatment plant to provide for a minimum 90% removal of BOD and suspended solids.
   (b) Filtration plant backwash will be diverted to sanitary sewer system in above project.

7. Requirements of standards or other enforcement measures. (Indicate which of the "applicable standards" described in paragraph 5(a) of Circular No. A-81 applies and if the standards, an Enforcement Conference or other measures specify a date for installation of treatment.)

   New York State "water quality standards" require secondary treatment by December 1972.

8. Proposed schedule for: (1) completion of design: FY 1968; (2) start of construction: FY 1972; and (3) completion of project: FY 1973.

9. Costs of pollution control measures (in thousands of dollars).

   Total costs: $4,411.2
   Cost by fiscal years and appropriation account:
   1968: 300 for design
   1972: 4,111.2 for const (MCON)

10. Estimated additional operation and maintenance costs, if available.

11. Other relevant information.

   Funds appropriated in 1968, totaling $3,500,000, were deferred with congressional approval.

EXHIBIT 2
Circular No. A-81
Revised

WATER POLLUTION CONTROL STATUS REPORT

AGENCY: (Department of Government)
(Bureau)
Agency Contact: John J. Jones
Telephone: 202 345-3000

Page: 1 of 1
Quarterly reporting date: June 30, 1970

Proj No.	Project Name and Location	Project Costs ($1,000's) Amt in President's Budget or Agency Plan 1968	1969	1970	1971	1972	1973	Post 1973	Present Cost Est	Status
	SECTION A (Completed Projects)									
1	Office Building, Portland, Maine		112 (100)						100	COMP 10-69.
2	Training School, Booton, New Jersey		58 (0)	58 (58)#					0	DISC. Project dropped due to closing of school in FY 1971.
	Totals, Sect. A		170 (100)	58 (58)					100	
	SECTION B (Active Projects)									
5	District Office, Buffalo, New York			80 (80)					105	DEFER 12-72. Additional funds being reprogrammed due to cost increase.
4a	Research Laboratory, Cleveland, Ohio (phase 1)				27				27	DES 10-72.
4b	Research Laboratory, Cleveland, Ohio (phase 2)					85			85	FP 10-73.
3	Fort Smith, Bloomville, New York	3500 (3500)#				4111			4111	DEFER 9-72. Funds reprogrammed. Explained on Exhibit 1.
6	Fire Fighting School, Boston, Massachusetts.						500		500	FP 7-74.
7	Smelting Plant, Houston, Texas							1000	1000	OTHER. Major change in process scheduled for 1974! Extension approved by BOB 6-7-70.
	Totals, Sect. B	3500 (3500)	0	80 (80)	27	4196	500	1000	5828	

#Funds not used

(NOTE: THIS EXHIBIT TO BE COMPLETED ON LEGAL SIZE PAPER)

ATTACHMENT B
Circular No. A-81
Revised

UNITED STATES DEPARTMENT OF THE INTERIOR
FEDERAL WATER QUALITY ADMINISTRATION

REGIONAL DIRECTORS

Regional Director
Northeast Region
Federal Water Quality Admin., DI
John F. Kennedy Federal Bldg., Room 2303
Boston, Massachusetts 02203

Regional Director
Middle Atlantic Region
Federal Water Quality Admin., DI
918 Emmet Street
Charlottesville, Virginia 22901

Regional Director
Southeast Region
Federal Water Quality Admin., DI
1421 Peachtree St., N.E., Suite 300
Atlanta, Georgia 30309

Regional Director
Ohio Basin Region
Federal Water Quality Admin., DI
4676 Columbia Parkway
Cincinnati, Ohio 45226

Regional Director
Great Lakes Region
Federal Water Quality Admin., DI
33 East Congress Parkway, Room 410
Chicago, Illinois 60605

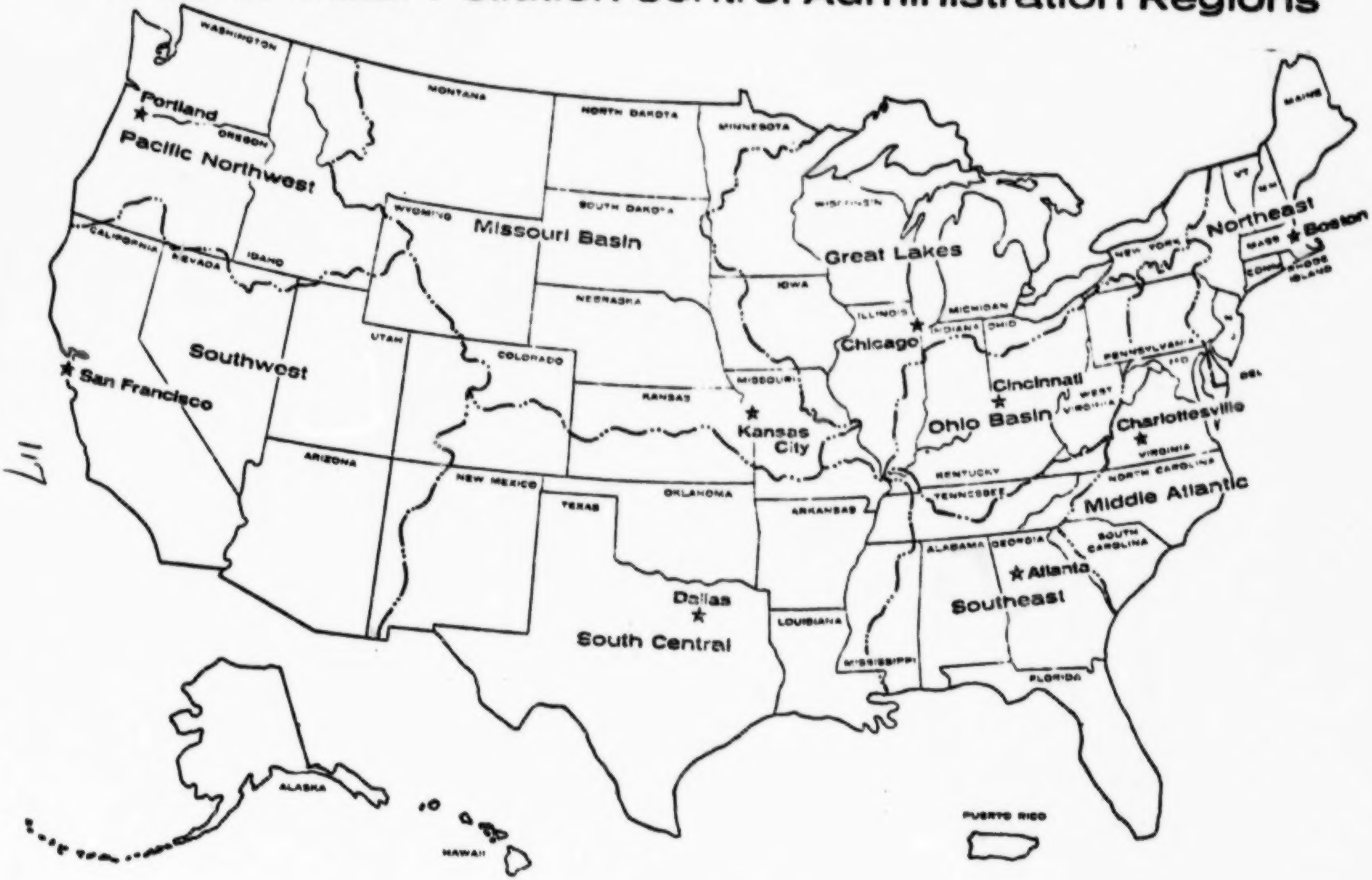
Regional Director
Missouri Basin Region
Federal Water Quality Admin., DI
911 Walnut Street, Room 702
Kansas City, Missouri 64106

Regional Director
South Central Region
Federal Water Quality Admin., DI
1402 Elm Street
Dallas, Texas 75202

Regional Director
Southwest Region
Federal Water Quality Admin., DI
760 Market Street
San Francisco, California 94102

Regional Director
Northwest Region
Federal Water Quality Admin., DI
Pittock Block, Room 510
Portland, Oregon 97205

Federal Water Pollution Control Administration Regions


Pacific Northwest
Portland
Southwest
San Francisco
Missouri Basin
South Central
Dallas
Kansas City
Great Lakes
Chicago
Ohio Basin
Cincinnati
Southeast
Atlanta
Middle Atlantic
Charlottesville
Northeast
Boston
WASHINGTON
OREGON
CALIFORNIA
NEVADA
IDAHO
MONTANA
WYOMING
UTAH
ARIZONA
COLORADO
NEW MEXICO
NORTH DAKOTA
SOUTH DAKOTA
NEBRASKA
KANSAS
OKLAHOMA
TEXAS
MINNESOTA
IOWA
MISSOURI
ARKANSAS
LOUISIANA
WISCONSIN
ILLINOIS
MICHIGAN
INDIANA
OHIO
KENTUCKY
TENNESSEE
MISSISSIPPI
ALABAMA
GEORGIA
FLORIDA
SOUTH CAROLINA
NORTH CAROLINA
VIRGINIA
WEST VIRGINIA
PENNSYLVANIA
MD
DEL
NEW YORK
VT
NH
MAINE
MASS
CONN
RHODE ISLAND
ALASKA
HAWAII
PUERTO RICO

CLEAN AIR ACT
Section 306

§ 1857h—4. Federal procurement—Contracts with violators prohibited

(a) No Federal agency may enter into any contract with any person who is convicted of any offense under section 1857c—8(c)(1) of this title for the procurement of goods, materials, and services to perform such contract at any facility at which the violation which gave rise to such conviction occurred if such facility is owned, leased, or supervised by such person. The prohibition in the preceding sentence shall continue until the Administrator certifies that the condition giving rise to such a conviction has been corrected.

Notification procedures

(b) The Administrator shall establish procedures to provide all Federal agencies with the notification necessary for the purposes of subsection (a) of this section.

Federal agency contracts

(c) In order to implement the purposes and policy of this chapter to protect and enhance the quality of the Nation's air, the President shall, not more than 180 days after December 31, 1970, cause to be issued an order (1) requiring each Federal agency authorized to enter into contracts and each Federal agency which is empowered to extend Federal assistance by way of grant, loan, or contract to effectuate the purpose and policy of this chapter in such contracting or assistance activities, and (2) setting forth procedures, sanctions, penalties, and such other provisions, as the President determines necessary to carry out such requirement.

Exemptions; notification to Congress

(d) The President may exempt any contract, loan, or grant from all or part of the provisions of this section where he determines such exemption is necessary in the paramount interest of the United States and he shall notify the Congress of such exemption.

Annual report to Congress

(e) The President shall annually report to the Congress on measures taken toward implementing the purpose and intent of this section, including but not limited to the progress and problems associated with implementation of this section.

July 14, 1955, c. 360, Title III, § 306, as added Dec. 31, 1970, Pub.L. 91-604,§ 12(a), 84 Stat. 1707.

FEDERAL WATER POLLUTION CONTROL ACT

Section 21(b)

Issuance of Federal license or permit for activities resulting in discharges into navigable waters of United States; prerequisities; certification procedures; procedure subsequent to certification; compliance with applicable water quality standards; inspection prior to initial operation of activity by certifying body; suspension of license or permit; applicability to Federal agencies; effective dates of certification requirements; lack of applicable water quality standards for particular activities

(b) (1) Any applicant for a Federal license or permit to conduct any activity including, but not limited to, the construction or operation of facilities, which may result in any discharge into the navigable waters of the United States, shall provide the licensing or permitting agency a certification from the State in which the discharge originates or will originate, or, if appropriate, from the interstate water pollution control agency having jurisdiction over the navigable waters at the point where the discharge originates or will originate, that there is reasonable assurance, as determined by the State or interstate agency that such activity will be conducted in a manner which will not violate applicable water quality standards. Such State or interstate agency shall establish procedures for public notice in the case of all applications for certification by it, and to the extent it deems appropriate, procedures for public hearings in connection with specific applications. In any case where such standards have been promulgated by the Secretary pursuant to section 1160(c) of this title, or where a State or interstate agency has no authority to give such a certification, such certification shall be from the Secretary. If the State, interstate agency, or Secretary, as the case may be, fails or refuses to act on a request for certification, within a reasonable period of time (which shall not exceed one year) after receipt of such request, the certification requirements of this subsection shall be waived with respect to such Federal application. No license or permit shall be granted until the certification required by this section has been obtained or has been waived as provided in the preceding sentence. No license or permit shall be granted if certification has been denied by the State, interstate agency, or the Secretary, as the case may be.

(2) Upon receipt of such application and certification the licensing or permitting agency shall immediately notify the Secretary of such application and certification. Whenever such a discharge may affect, as determined by the Secretary, the quality of the waters of any other State, the Secretary within thirty days of the date of notice of application for such Federal license or permit shall so notify such other State, the licensing or permitting agency,

and the applicant. If, within sixty days after receipt of such notification, such other State determines that such discharge will affect the quality of its waters so as to violate its water quality standards, and within such sixty-day period notifies the Secretary and the licensing or permitting agency in writing of its objection to the issuance of such license or permit and requests a public hearing on such objection, the licensing or permitting agency shall hold such a hearing. The Secretary shall at such hearing submit his evaluation and recommendations with respect to any such objection to the licensing or permitting agency. Such agency, based upon the recommendations of such State, the Secretary, and upon any additional evidence, of any, presented to the agency at the hearing, shall condition such license or permit in such manner as may be necessary to insure compliance with applicable water quality standards. If the imposition of conditions cannot insure such compliance such agency shall not issue such license or permit.

(3) The certification obtained pursuant to paragraph (1) of this subsection with respect to the construction of any facility shall fulfill the requirements of this subsection with respect to certification in connection with any other Federal license or permit required for the operation of such facility unless, after notice to the certifying State, agency, or Secretary, as the case may be, which shall be given by the Federal agency to whom application is made for such operating license or permit, the State, or if appropriate, the interstate agency or the Secretary, notifies such agency within sixty days after receipt of such notice that there is no longer reasonable assurance that there will be compliance with applicable water quality standards because of changes since the construction license or permit certification was issued in (A) the construction or operation of the facility, (B) the characteristics of the waters into which such discharge is made, or (C) the water quality standards applicable to such waters. This paragraph shall be inapplicable in any case where the applicant for such operating license or permit has failed to provide the certifying State, or if appropriate, the interstate agency or the Secretary, with notice of any proposed changes in the construction or operation of the facility with respect to which a construction license or permit has been granted which changes may result in violation of applicable water quality standards.

(4) Prior to the initial operation of any federally licensed or permitted facility or activity which may result in any discharge into the navigable waters of the United States and with respect to

which a certification has been obtained pursuant to paragraph (1) of this subsection, which facility or activity is not subject to a Federal operating license or permit, the licensee or permittee shall provide an opportunity for such certifying State or, if appropriate, the interstate agency or the Secretary to review the manner in which the facility or activity shall be operated or conducted for the purposes of assuring that applicable water quality standards will not be violated. Upon notification by the certifying State or, if appropriate, the interstate agency or the Secretary that the operation of any such federally licensed or permitted facility or activity will violate applicable water quality standards, such Federal agency may, after public hearing, suspend such license or permit. If such license or permit is suspended, it shall remain suspended until notification is received from the certifying State, agency, or Secretary, as the case may be, that there is reasonable assurance that such facility or activity will not violate applicable water quality standards.

(5) Any Federal license or permit with respect to which a certification has been obtained under paragraph (1) of this subsection may be suspended or revoked by the Federal agency issuing such license or permit upon the entering of a judgment under section 1160(h) or this title that such facility or activity has been operated in violation of applicable water quality standards.

(6) No Federal agency shall be deemed to be an applicant for the purposes of this subsection.

(7) In any case where actual construction of a facility has been lawfully commenced prior to April 3, 1970, no certification shall be required under this subsection for a license or permit issued after April 3, 1970, to operate such facility, except that any such license or permit issued without certification shall terminate at the end of the three-year period beginning on April 3, 1970, unless prior to such termination date the person having such license or permit submits to the Federal agency which issued such license or permit a certification and otherwise meets the requirements of this subsection.

(8) Except as provided in paragraph (7), any application for a license or permit (A) that is pending on April 3, 1970, and (B) that is issued within one year following April 3, 1970, shall not require certification pursuant to this subsection for one year following the issuance of such license or permit, except that any such license or permit issued shall terminate at the end of one year unless prior to that time the licensee or permittee submits to the

Federal agency that issued such license or permit a certification and otherwise meets the requirements of this subsection.

(9) (A) In the case of any activity which will affect water quality but for which there are no applicable water quality standards, no certification shall be required under this subsection, except that the licensing or permitting agency shall impose, as a condition of any license or permit, a requirement that the licensee or permittee shall comply with the purposes of this chapter.

(B) Upon notice from the State in which the discharge originates or, as appropriate, the interstate agency or the Secretary, that such licensee or permittee has been notified of the adoption of water quality standards applicable to such activity and has failed, after reasonable notice, of not less than six months, to comply with such standards, the license or permit shall be suspended until notification is received from such State or interstate agency or the Secretary that there is reasonable assurance that such activity will comply with applicable water quality standards.

Authority of departments or agencies to require compliance with applicable water quality standards unaffected; requests to Secretary for information on and methods to comply with applicable water quality standards

(c) Nothing in this section shall be construed to limit the authority of any department or agency pursuant to any other provision of law to require compliance with applicable water quality standards. The Secretary shall, upon the request of any Federal department or agency, or State or interstate agency, or applicant, provide, for the purpose of this section, any relevant information on applicable water quality standards, and shall, when requested by any such department or agency or State or interstate agency, or applicant, comment on any methods to comply with such standards.

Authority of Secretary of the Army to allow use of spoil disposal areas by Federal licenses or permittees; fee

(d) In order to implement the provisions of this section, the Secretary of the Army, acting through the Chief of Engineers, is authorized, if he deems it to be in the public interest, to permit the use of spoil disposal areas under his jurisdiction by Federal licensees or permittees, and to make an appropriate charge for such use. Moneys received from such licenses or permittees shall be deposited in the Treasury as miscellaneous receipts.

such use. June 30, 1948, c. 758, § 21, formerly § 9, 62 Stat. 1160; July 9, 1956, c. 518, § 1, 70 Stat. 506; July 20, 1961, Pub.L. 87–88, § 8, 75 Stat. 210; renumbered § 11, and amended Oct. 2, 1965,

SOLID WASTE DISPOSAL ACT
Section 211(b)

(b) Each Executive agency which issues any license or permit for disposal of solid waste shall, prior to the issuance of such license or permit, consult with the Secretary to insure compliance with guidelines recommended under section 3254c of this title and the purposes of this chapter.

THE AIRPORT AND AIRWAYS DEVELOPMENT ACT

§ 1712. National airport systems plan—Formulation

* * * * * * *

Consultation concerning environmental changes

(f) In carrying out this section, the Secretary shall consult with and consider the views and recommendations of the Secretary of the Interior, the Secretary of Health, Education, and Welfare, the Secretary of Agriculture, and the National Council on Environmental Quality. The recommendations of the Secretary of the Interior, the Secretary of Health, Education, and Welfare, the Secretary of Agriculture, and the National Council on Environmental Quality, with regard to the preservation of environmental quality, shall, to the extent that the Secretary of Transportation determines to be feasible, be incorporated in the national airport system plan.

* * * * * * *

Pub.L. 91-258, Title I, § 13, May 21, 1970, 84 Stat. 224.

§ 1716. Project applications for airport development—Submission

* * * * * * *

Approval

(c) (1) All airport development projects shall be subject to the approval of the Secretary, which approval may be given only if he is satisfied that—

(A) the project is reasonably consistent with plans (existing at the time of approval of the project) of planning agencies for the development of the area in which the airport is located and will contribute to the accomplishment of the purposes of this subchapter;

(B) sufficient funds are available for that portion of the project costs which are not to be paid by the United States under this subchapter;

(C) the project will be completed without undue delay;

(D) the public agency or public agencies which submitted the project application have legal authority to engage in the airport development as proposed; and

(E) all project sponsorship requirements prescribed by or under the authority of this subchapter have been or will be met.

No airport development project may be approved by the Secretary with respect to any airport unless a public agency holds good title, satisfactory to the Secretary, to the landing area of the airport or the site therefor, or gives assurance satisfactory to the Secretary that good title will be acquired.

(2) No airport development project may be approved by the Secretary which does not include provision for installation of the landing aids specified in subsection (d) of section 1717 of this title and determined by him to be required for the safe and efficient use of the airport by aircraft taking into account the category of the airport and the type and volume of traffic utilizing the airport.

(3) No airport development project may be approved by the Secretary unless he is satisfied that fair consideration has been given to the interest of communities in or near which the project may be located.

(4) It is declared to be national policy that airport development projects authorized pursuant to this subchapter shall provide for the protection and enhancement of the natural resources and the quality of environment of the Nation. In implementing this policy, the Secretary shall consult with the Secretaries of the Interior and Health, Education, and Welfare with regard to the effect that any project involving airport location, a major runway extension, or runway location may have on natural resources including, but not limited to, fish and wildlife, natural, scenic, and recreation assets, water and air quality, and other factors affecting the environment, and shall authorize no such project found to have adverse effect unless the Secretary shall render a finding, in writing, following a full and complete review, which shall be a matter of public record, that no feasible and prudent alternative exists and that all possible steps have been taken to minimize such adverse effect.

Hearings

(d) (1) No airport development project involving the location of an airport, an airport runway, or a runway extension may be approved by the Secretary unless the public agency sponsoring the project certifies to the Secretary that there has been afforded the opportunity for public hearings for the purpose of considering the economic, social, and environmental effects of the airport location and its consistency with the goals and objectives of such urban planning as has been carried out by the community.

(2) When hearings are held under paragraph (1) of this subsection, the project sponsor shall, when requested by the Secretary, submit a copy of the transcript to the Secretary.

Air and water quality

(e) (1) The Secretary shall not approve any project application for a project involving airport location, a major runway extension, or runway location unless the Governor of the State in which such project may be located certifies in writing to the Secretary that there is reasonable assurance that the project will be located, designed, constructed, and operated so as to comply with applicable air and water quality standards. In any case where such standards have not been approved or where such standards have been promulgated by the Secretary of the Interior or the Secretary of Health, Education, and Welfare, certification shall be obtained from the appropriate Secretary. Notice of certification or of refusal to certify shall be provided within sixty days after the project application is received by the Secretary.

(2) The Secretary shall condition approval of any such project application on compliance during construction and operation with applicable air and water quality standards.

* * * * * * *

Pub.L. 91-258, Title I, § 16, May 21, 1970, 84 Stat. 226.

EXECUTIVE ORDER 11574

Dec. 23, 1970, 35 F. R. 19627

ADMINISTRATION OF REFUSE ACT PERMIT PROGRAM

By virtue of the authority vested in me as President of the United States, and in furtherance of the purposes and policies of section 13 of the Act of March 3, 1899, c. 425, 30 Stat. 1152 (33 U.S.C. 407), the Federal Water Pollution Control Act, as amended (33 U.S.C. 1151 et. seq), the Fish and Wildlife Coordination Act, as amended (16 U.S.C. 661–666c), and the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4347), it is hereby ordered as follows:

Section 1. Refuse Act permit program. The executive branch of the Federal Government shall implement a permit program under the aforesaid section 13 of the Act of March 3, 1899 (hereinafter referred to as "the Act") to regulate the discharge of pollutants and other refuse matter into the navigable waters of the United States or their tributaries and the placing of such matter upon their banks.

Sec. 2. Responsibilities of Federal agencies. (a) (1) The Secretary shall, after consultation with the Administrator respecting water quality matters, issue and amend, as appropriate, regulations, procedures, and instructions for receiving, processing, and evaluating applications for permits pursuant to the authority of the Act.

(2) The Secretary shall be responsible for granting, denying, conditioning, revoking, or suspending Refuse Act permits. In so doing:

(A) He shall accept findings, determinations, and interpretations which the Administrator shall make respecting applicable water quality standards and compliance with those standards in particular circumstances, including findings, determinations, and interpretations arising from the Administrator's review of State or interstate agency water quality certifications under section 21(b) of the Federal Water Pollution Control Act (84 Stat. 108). A permit shall be denied where the certification prescribed by section 21(b) of the Federal Water Pollution Control Act has been denied, or where issuance would be inconsistent with any finding, determination, or interpretation of the Administrator pertaining to applicable water quality standards and considerations.

(B) In addition, he shall consider factors, other than water quality, which are prescribed by or may be lawfully considered under the Act or other pertinent laws.

(3) The Secretary shall consult with the Secretary of the Interior, with the Secretary of Commerce, with the Administrator, and with the head of the agency exercising administration over the wildlife resources of any affected State, regarding effects on fish and wildlife which are not reflected in water quality considerations, where the discharge for which a permit is sought impounds, diverts, deepens the channel, or otherwise controls or similarly modifies the stream or body of water into which the discharge is made.

(4) Where appropriate for a particular permit application, the Secretary shall perform such consultations respecting environmental amenities and values, other than those specifically referred to in paragraphs (2) and (3) above, as may be required by the National Environmental Policy Act of 1969.

(b) The Attorney General shall conduct the legal proceedings necessary to enforce the Act and permits issued pursuant to it.

Sec. 3. Coordination by Council on Environmental Quality. (a) The Council on Environmental Quality shall coordinate the regulations, policies, and procedures of Federal agencies with respect to the Refuse Act permit program.

(b) The Council on Environmental Quality, after consultation with the Secretary, the Administrator, the Secretary of the Interior, the Secretary of Commerce, the Secretary of Agriculture, and the Attorney General, shall from time to time or as directed by the President advise the President respecting the implementation of the Refuse Act permit program, including recommendations regarding any measures which should be taken to improve its administration.

Sec. 4. Definitions. As used in this order, the word "Secretary" means the Secretary of the Army, and the word "Administrator" means the Administrator of the Environmental Protection Agency.

RICHARD NIXON

EXECUTIVE ORDER 11602

July 1, 1971, 36 Fed. Reg. 12475

PROVIDING FOR ADMINISTRATION OF THE CLEAN AIR ACT WITH RESPECT TO FEDERAL CONTRACTS, GRANTS, OR LOANS

By virtue of the authority vested in me by the provisions of the Clean Air Act, as amended (42 U.S.C. 1857 et seq.), and particularly section 306 of that Act as added by the Clean Air Amendments of 1970 (Public Law 91-604, approved December 31, 1970), it is hereby ordered as follows:

Section 1. Policy. It is the policy of the Federal Government to improve and enhance environmental quality. In furtherance of that policy, the program prescribed in this Order is instituted to assure that policy, the program prescribed in this Order is instituted to assure that each Federal agency empowered to enter into contracts for the procurement of goods, materials, or services and each Federal agency empowered to extend Federal assistance by way of grant, loan, or contract shall undertake such procurement and assistance activities in a manner that will result in effective enforcement of the Clean Air Act (hereinafter referred to as "the Act").

Sec. 2. Designation of Facilities. (a) The Administrator of the Environmental Protection Agency (hereinafter referred to as "the Administrator") shall be responsible for the attainment of the purposes and objectives of this Order.

(b) In carrying out his responsibilities under this Order, the Administrator shall, in conformity with all applicable requirements of law, designate facilities which have given rise to a conviction for an offense under section 113(c)(1) of the Act. The Administrator shall, from time to time, publish and circulate to all Federal agencies lists of those facilities, together with the names and addresses of the persons who have been convicted of such offenses. Whenever the Administrator determines that the condition which gave rise to a conviction has been corrected, he shall promptly remove the facility and the name and address of the person concerned from the list.

Sec. 3. Contracts, Grants, or Loans. (a) Except as provided in section 8 of this Order, no Federal agency shall enter into any contract for the procurement of goods, materials, or services which is to be performed in whole or in part in a facility then designated by the Administrator pursuant to section 2.

(b) Except as provided in section 8 of this Order, no Federal agency authorized to extend Federal assistance by way of grant, loan, or contract shall extend such assistance in any case in which it is to be used to support any activity or program involving the use of a facility then designated by the Administrator pursuant to section 2.

Sec. 4. Procurement, Grant, and Loan Regulations. The Federal Procurement Regulations, the Armed Services Procurement Regulations, and, to the extent necessary, any supplemental or comparable regulations issued by any agency of the Executive Branch shall, following consultation with the Administrator, be amended to require, as a condition of entering into, renewing, or extending any contract for the procurement of goods, materials, or services or extending any assistance by way of grant, loan, or contract, inclusion of a provision requiring compliance with the Act and standards issued pursuant thereto in the facilities in which the contract is to be performed, or which are involved in the activity or program to receive assistance.

Sec. 5. Rules and Regulations. The Administrator shall issue such rules, regulations, standards, and guidelines as he may deem necessary or appropriate to carry out the purposes of this Order.

Sec. 6. Cooperation and Assistance. The head of each Federal agency shall take such steps as may be necessary to insure that all officers and employees of his agency whose duties entail compliance or comparable functions with respect to contracts, grants, and loans are familiar with the provisions of this Order. In addition to any other appropriate action, such officers and employees shall report promptly any condition in a facility which may involve noncompliance with the Act or any rules, regulations, standards, or guidelines issued pursuant to this Order to the head of the agency, who shall transmit such report to the Administrator.

Sec. 7. Enforcement. The Administrator may recommend to the Department of Justice or other appropriate agency that legal proceedings be brought or other appropriate action be taken whenever he becomes aware of a breach of any provision required, under the amendments issued pursuant to section 4 of this Order, to be included in a contract or other agreement.

Sec. 8. Exemptions—Reports to Congress. (a) Upon a determination that the paramount interest of the United States so requires—

(1) The head of a Federal agency may exempt any contract, grant, or loan, and, following consultation with the Administrator,

any class of contracts, grants or loans from the provisions of this Order. In any such case, the head of the Federal agency granting such exemption shall (A) promptly notify the Administrator of such exemption and the justification therefor; (B) review the necessity for each such exemption annually; and (C) report to the Administrator annually all such exemptions in effect. Exemptions granted pursuant to this section shall be for a period not to exceed one year. Additional exemptions may be granted for periods not to exceed one year upon the making of a new determination by the head of the Federal agency concerned.

(2) The Administrator may, by rule or regulation, exempt any or all Federal agencies from any or all of the provisions of this Order with respect to any class or classes of contracts, grants, or loans which (A) involve less than specified dollar amounts, or (B) have a minimal potential impact upon the environment, or (C) involve persons who are not prime contractors or direct recipients of Federal assistance by way of contracts, grants, or loans.

(b) Federal agencies shall reconsider any exemption granted under subsection (a) whenever requested to do so by the Administrator.

(c) The Administrator shall annually notify the President and the Congress of all exemptions granted, or in effect, under this Order during the preceding year.

Sec. 9. Related Actions. The imposition of any sanction or penalty under or pursuant to this Order shall not relieve any person of any legal duty to comply with any provision of the Act.

Sec. 10. Applicability. This Order shall not apply to contracts, grants, or loans involving the use of facilities located outside the United States.

RICHARD NIXON

PART 115—STATE CERTIFICATION OF ACTIVITIES REQUIRING A FEDERAL LICENSE OR PERMIT

Subpart A—General

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115.30 Review and advice.

AUTHORITY: The provisions of this Part 115 issued under secs. 21 (b) and (c), 84 Stat. 91; 33 U.S.C. 1171(b) (1970). Reorganization Plan No. 3 of 1970.

Subpart A—General

§ 115.1 Definitions.

As used in this part, the following terms shall have the meanings indicated below:

(a) "License or permit" means any license or permit granted by an agency of the Federal Government to conduct any activity which may result in any discharge into the navigable waters of the United States.

(b) "Licensing or permitting agency" means any agency of the Federal Government to which application is made for a license or permit.

(c) "Administrator" means the Administrator, Environmental Protection Agency.

(d) "Regional Administrator" means the Regional designee appointed by the Administrator, Environmental Protection Agency.

(e) "Certifying Agency" means the person or agency designated by the Governor of a State, by statute, or by other governmental act, to certify compliance with applicable water quality standards. If an interstate agency has sole authority to so certify for the area within its jurisdiction, such interstate agency shall be the certifying agency. Where a State agency and an interstate agency have concurrent authority to certify, the State agency shall be the certifying agency. Where water quality standards have been promulgated by the Administrator pursuant to section 10(c)(2) of the Act, or where no State or interstate agency has authority to certify, the Administrator shall be the certifying agency.

(f) "Act" means the Federal Water Pollution Control Act, 33 U.S.C. 1151, et seq.

(g) "Water Quality Standards" means standards established pursuant to section 10(c) of the Act, and State-adopted water quality standards for navigable waters which are not interstate waters.

§ 115.2 Contents of certification.

(a) A certification made by a certifying agency shall include the following:

(1) The name and address of the applicant;

(2) A statement that the certifying agency has either (i) examined the application made by the applicant to the licensing or permitting agency (specifically identifying the number or code affixed to such application) and bases its certification upon an evaluation of the information contained in such application which is relevant to water quality considerations, or (ii) examined other information furnished by the applicant sufficient to permit the certifying agency to make the statement described in subparagraph (3) of this paragraph;

(3) A statement that there is a reasonable assurance that the activity will be conducted in a manner which will not violate applicable water quality standards;

(4) A statement of any conditions which the certifying agency deems necessary or desirable with respect to the discharge or the activity; and

(5) Such other information as the certifying agency may determine to be appropriate.

(b) The certifying agency may modify the certification in such manner as may be agreed upon by the certifying agency, the licensing or permitting agency, and the Regional Administrator.

§ 115.3 Contents of application.

A licensing or permitting agency shall require an applicant for a license or permit to include in the form of application such information relating to water quality considerations as may be agreed upon by the licensing or permitting agency and the Administrator.

Subpart B—Determination of Effect on Other States

§ 115.11 Copies of documents.

(a) Upon receipt from an applicant of an application for a license or permit without an accompanying certification, the licensing or permitting agency shall either (1) forward one copy of the application to the appropriate certifying agency and two copies to the Regional Administrator, or (2) forward three copies of the application to the Regional Administrator, pursuant to an agreement between the licensing or permitting agency and the Administrator that the Regional Administrator will transmit a copy of the application to the appropriate certifying agency. Upon subsequent receipt from an applicant of a certification, the licensing or permitting agency shall forward a copy of such certification to the Regional Administrator, unless such certification shall have been made by the Regional Administrator pursuant to § 115.24.

(b) Upon receipt from an applicant of an application for a license or permit with an accompanying certification, the licensing or permitting agency shall forward two copies of the application and certification to the Regional Administrator.

(c) Only those portions of the application which relate to water quality considerations shall be forwarded to the Regional Administrator.

§ 115.12 Supplemental information.

If the documents forwarded to the Regional Administrator by the licensing or permitting agency pursuant to § 115.11 do not contain sufficient information for the Regional Administrator to make the determination provided for in § 115.13, the Regional Administrator may request, and the licensing or permitting agency shall obtain from the applicant and forward to the Regional Administrator, any supplemental information as may be required to make such determination.

§ 115.13 Review by Regional Administrator and notification.

The Regional Administrator shall review the application, certification, and any supplemental information provided in accordance with §§ 115.11 and 115.12 and if the Regional Administrator determines there is reason to believe that a discharge may affect the quality of the waters of any State or States other than the State in which the discharge originates, the Regional Administrator shall, no later than 30 days of the date of receipt of the application and certification from the licensing or permitting agency as provided in § 115.11, so notify each affected State, the licensing or permitting agency, and the applicant.

§ 115.14 Forwarding to affected State.

The Regional Administrator shall forward to each affected State a copy of the material provided in accordance with § 115.11.

§ 115.15 Hearings on objection of affected State.

When a licensing or permitting agency holds a public hearing on the objection of an affected State, notice of such objection, including the grounds for such objection, shall be forwarded to the Regional Administrator by the licensing or permitting agency no later than 30 days prior to such hearing. The Regional Administrator shall at such hearing submit his evaluation with respect to such objection and his recommendations as to whether and under what conditions the license or permit should be issued.

§ 115.16 Waiver.

The certification requirement with respect to an application for a license or permit shall be waived upon:

(a) Written notification from the State or interstate agency concerned that it expressly waives its authority to act on a request for certification; or

(b) Written notification from the licensing or permitting agency to the Regional Administrator of the failure of the State or interstate agency concerned to act on such request for certification within a reasonable period of time after receipt of such request, as determined by the licensing or permitting agency (which period shall generally be considered to be 6 months, but in any event shall not exceed 1 year).

In the event of a waiver hereunder, the Regional Administrator shall consider such waiver as a substitute for a certification, and as appropriate, shall conduct the review, provide the notices, and perform the other functions identified in sections 115.13, 115.14, and 115.15. The notices required by section 115.13 shall be provided not later than 30 days after the date of receipt by the Regional Administrator of either notification referred to herein.

Subpart C—Certification by the Administrator

§ 115.21 When Administrator certifies.

Certification by the Administrator that the discharge resulting from an activity requiring a license or permit will not violate applicable water quality standards will be required where:

(a) Standards have been promulgated, in whole or in part, by the Administrator pursuant to section 10(c)(2) of the Act: *Provided, however*, That the Administrator will certify compliance only with respect to those water quality standards promulgated by him; or

(b) Water quality standards have been established, but no State or interstate agency has authority to give such a certification.

§ 115.22 Applications.

An applicant for certification from the Administrator shall submit to the Regional Administrator a complete description of the discharge involved in the activity for which certification is sought, with a request for certification signed by the applicant. Such description shall include the following:

(a) The name and address of the applicant;

(b) A description of the facility or activity, and of any discharge into navigable waters which may result from the conduct of any activity including, but not limited to, the construction or operation of the facility, including the biological, chemical, thermal, and other characteristics of the discharge, and the location or locations at which such discharge may enter navigable waters;

(c) A description of the function and operation of equipment or facilities to treat wastes or other effluents which may be discharged, including specification of the degree of treatment expected to be attained;

(d) The date or dates on which the activity will begin and end, if known, and the date or dates on which the discharge will take place;

(e) A description of the methods and means being used or proposed to monitor the quality and characteristics of the discharge and the operation of equipment or facilities employed in the treatment or control of wastes or other effluents.

§ 115.23 Notice and hearing.

The Regional Administrator will provide public notice of each request for certification by mailing to State, County, and municipal authorities, heads of State agencies responsible for water quality improvement, and other parties known to be interested in the matter, including adjacent property owners and conservation organizations, or may provide such notice in a newspaper of general circulation in the area in which the activity is proposed to be conducted if the Regional Administrator deems mailed notice to be impracticable. Interested parties shall be provided an opportunity to comment on such request in such manner as the Regional Administrator deems appropriate. All interested and affected parties will be given reasonable opportunity to present evidence and testimony at a public hearing on the question whether to grant or deny certification if the Regional Administrator determines that such a hearing is necessary or appropriate.

§ 115.24 Certification.

If, after considering the complete description, the record of a hearing, if any, held pursuant to § 115.23, and such other information and data as the Regional Administrator deems relevant, the Regional Administrator determines that there is reasonable assurance that the proposed activity will not result in a violation of applicable water quality standards, he shall so certify. If the Regional Administrator determines that no water quality standards are applicable to the waters which might be affected by the proposed activity, he shall so notify the applicant and the licensing or permitting agency in writing and shall provide the licensing or permitting agency with advice, suggestions, and recommendations with respect to conditions to be incorporated in any license or permit to achieve compliance with the purpose of this Act. In such case, no certification shall be required.

§ 115.25 Adoption of new water quality standards.

(a) In any case where:

(1) A license or permit was issued without certification due to the absence of applicable water quality standards; and

(2) Water quality standards applicable to the waters into which the licensed or permitted activity may discharge are subsequently established; and

(3) The Administrator is the certifying agency because:

(i) No State or interstate agency has authority to certify; or

(ii) Such new standards were promulgated by the Administrator pursuant to section 10(c)(2) of the Act, and

(4) The Regional Administrator determines that such uncertified activity is violating water quality standards;

Then the Regional Administrator shall notify the licensee or permittee of such violation, including his recommendations as to actions necessary for compliance. If the licensee or permittee fails within 6 months of the date of such notice to take action which in the opinion of the Regional Administrator will result in compliance with applicable water quality standards, the Regional Administrator shall notify the licensing or permitting agency that the licensee or permittee has failed, after reasonable notice, to comply with such standards and that suspension of the applicable license or permit is required by section 21(b)(9)(B) of the Act.

(b) Where a license or permit is suspended pursuant to paragraph (a) of this section, and where the licensee or permittee subsequently takes action which in the Regional Administrator's opinion will result in compliance with applicable water quality standards, the Regional Administrator shall then notify the licensing or permitting agency that there is reasonable assurance that the licensed or permitted activity will comply with applicable water quality standards.

§ 115.26 Inspection of facility or activity before operation.

Where any facility or activity has received certification pursuant to § 115.24 in connection with the issuance of a license or permit for construction, and where such facility or activity is not required to obtain an operating license or permit, the Regional Administrator or his representative, prior to the initial operation of such facility or activity, shall be afforded the opportunity to inspect such facility or activity for the purpose of determining if the manner in which such facility or activity will be operated or conducted will violate applicable water quality standards.

§ 115.27 Notification to licensing or permitting agency.

If the Regional Administrator, after an inspection pursuant to § 115.26, determines that operation of the proposed facility or activity will violate applicable water quality standards, he shall so notify the applicant and the licensing or permitting agency, including his recommendations as to remedial measures necessary to bring the operation of the proposed facility into compliance with such standards.

§ 115.28 Termination of suspension.

Where a licensing or permitting agency, following a public hearing, suspends a license or permit after receiving the Regional Administrator's notice and recommendation pursuant to § 115.27, the applicant may submit evidence to the Regional Administrator that the facility or activity or the operation or conduct thereof has been modified so as not to violate water quality standards. If the Regional Administrator determines that water quality standards will not be violated, he shall so notify the licensing or permitting agency.

Subpart D—Consultations

§ 115.30 Review and advice.

The Regional Administrator may, and upon request shall, provide licensing and permitting agencies with determinations, definitions and interpretations with respect to the meaning and content of water quality standards where they have been federally approved under section 10 of the Act, and findings with respect to the application of all applicable water quality standards in particular cases and in specific circumstances relative to an activity for which a license or permit is sought. The Regional Administrator may, and upon request shall, also advise licensing and permitting agencies as to the status of compliance by dischargers with the conditions and requirements of applicable water quality standards. In cases where an activity for which a license or permit is sought will affect water quality, but for which there are no applicable water quality standards, the Regional Administrator may advise licensing or permitting agencies with respect to conditions of such license or permit to achieve compliance with the purpose of the Act.